

Lex Mercatoria:

OR, THE Merchant's Companion.

Containing all the
L A W S and S T A T U T E S
Relating to M E R C H A N D I Z E.

W H E R E I N

Our Trade with Foreign Nations, and Trade in General amongst our selves, with what belongs to particular Companies, and all Maritime Affairs, in the Way of Traffick, are illustrated and concisely treated of; under the Heads of Merchants, and Owners of Ships, Masters, Mariners, Pilots, Freight, and Charter-parties of Affreightment, Insurance, Bottomry, Customs, Wrecks, Factors, Planters and Plantations, Letters of Marque and Reprisal, Privateers, Piracy, Treaties of Commerce, Exchange, &c.

W I T H

An INTRODUCTION, setting forth the Laws of Nature and of Nations, Dominion of the Sea, &c. Some curious and useful History, and Variety of Special Cases and Determinations interspers'd thro' the Whole.

To which are added, in proper Places,

The best adapted Precedents of Instruments and Writings made Use of in all Cases relating to Trade.

The Second Edition corrected, with the Addition of
Three entire new Chapters.

And also

A Merchant's Dictionary, of Words and Terms, &c.

In the SAVOY:

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three Daggers, and J. Shuckburgh in Fleet-street. 1729.

THE ANTIQUARIAN

OF THE

ANTIQUARIAN SOCIETY

OF LONDON

AND OF THE

ANTIQUARIAN SOCIETY

OF LONDON

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To the Right Honourable
T H E
Earl of *PEMBROKE*.

MY LORD,

AS the following Sheets contain an Illustration of the *British Commerce*, which is ever secur'd by our Royal Navy and Superior Fleets at Sea, the Direction and Government whereof, in a late glorious Reign, was committed to your Lordship, as LORD HIGH ADMIRAL of *Great Britain*, an Honour, which no *English* Nobleman now living, can boast of but your self; I hope you will Pardon, if not favourably Accept of this Address to your Lordship.

That your Lordship is a proper Patron for a Treatise of this Kind, is what must be impartially confess'd by all, since by your great and penetra-
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DEDICATION.

ting Wisdom, uncommon Vigilance, and excellent Conduct, under the Sovereign you served, our Trade and Navigation have been powerfully protected and maintain'd; and the ENGLISH FLAG had all Honour and Obedience paid to it, as in the Times of our most Renown'd Monarchs, and the GREATEST LORD ADMIRALS the immediate Agents of their Naval Administration.

It is unquestionably your Lordship's Fame, That You SINGLY manag'd the important Business of the MAIN, with the Utmost Ability, Reputation, and Applause: And 'tis my Ambition, to commit a Work treating of our Maritime Affairs to your High Patronage, who am,

MY LORD,

Your Lordship's most Humble,

And Obedient Servant,

Giles Jacob.

T H E
P R E F A C E.

EVERY Reader will confess, that the Books hitherto extant, on this Subject, abound with superfluous and unnecessary Matter; And that, besides the Confusion of the Informations therein, they are very deficient in many Things of Consequence, and no Heads in any of them so thoroughly finish'd, as to make them compleatly useful at this Time; so that I am under no Necessity of making any particular Apology for engaging in an Undertaking of this Nature.

In the Treatise following, I have taken the best Care to express my self particularly and fully as to what relates to Trade at Home, especially with Regard to the several establish'd
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The P R E F A C E.

Companies, which I take Leave to observe, all the other Books are wanting in. I have likewise presented to View, what is necessary concerning our Foreign Trade; without entering into the tedious Accounts of Antiquity, or what does not immediately relate to our English Commerce, which the Books of Others are very guilty of. I have continued the several Treaties of Commerce with Foreign Nations to this Time, and the several Acts of Parliament, any Ways concerning Trade, under the most proper Titles; and interspers'd throughout a new Set of the best fitted Precedents of Instruments for all Manner of Uses whatsoever.

This Treatise so compiled, and by the exact Method I have pursu'd, is render'd of the greatest Benefit to all Trading Persons, and likewise the Practisiers of the Law; for which Last, the other Books seem to be entirely calculated: And as I have taken the utmost Pains to make the
Same,

The P R E F A C E.

Same, compleatly useful to all Sorts of Merchants, so I doubt not their kind Acceptance; And for the Gentlemen of my Profession, I hope I have no Reason to distrust their Candour, when I consider the favourable Reception my other Writings have met with from them.

As a large Impression of this Work hath been now vended, the Publick are to be inform'd, That in this Second Edition thereof, I have added Three entire new Chapters, and made considerable other Additions, as a yet farther Recommendation of it to Merchants and Others, particularly relating to the Duty and Business of Merchants, as well as the Laws and Statutes on the Subject.

G. J.

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Lex

Lex Mercatoria :

O R, T H E

Merchant's Companion.

Introduction, on the Laws of Nature and of Nations, and of Aliens and Denizens, of Trade in general, and the Advantage accruing to Princes by Merchandise; also of the Navy Royal of England, Dominion of the Sea, &c.

THERE being many curious Observations relating to the Laws of Nations, and Maritime Affairs, &c. not immediately concerning the Business of the Merchant, though necessary for his Information, I shall contain the same, among other useful Things in general, in a short Introduction, and begin with the Derivation of the Word *Law*; then proceed to the Use of the Law; Of Property; Of the Laws of Nature, and of Nations; Of Aliens and Denizens.

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zens, &c. the Disabilities of the former, and Privileges of the latter, in the Business of Trade.

For the Derivation of the Word *Law*, some Authors are of Opinion, it is à *Legendo*, from Reading or rather Choosing, because it belongs to the Persons in whom the Legislative Power is vested, to choose that which they think most advantageous to the Commonwealth, and to pass it into a Law; but others, with more Probability tell us it comes à *Ligando*, from Binding, because all Laws are in their Nature Binding, and lay an Obligation.

The Use of the Law, 'tis well known, is to secure to us the Property of what we enjoy; and Property is the highest Right that a Man can have to either his Lands or Goods. Before the Flood, there was no such Thing as Property, but an universal Right instead of it; every Man might then take to his Use what he pleased; and what he had so possess'd himself of, another could not, without manifest Injury, take away from him.

The Original Laws were the Laws of Nature, grounded upon right Reason and Honesty; and we have not a Legislative Power to alter or diminish any of Nature's Laws. Our circumstantiated Laws are only to fix a Rule for an equal and mutual Community in Things, which God and Nature gave us to dispose of as we should think fit.

In Respect to the Law of Nations, Kings, and such as have equal Power with them, have a Right to require Punishment for Injuries committed against Themselves or their Subjects, upon the Violation of National Ordinances, or the Laws of Nature; though the Right of inflicting Punishments, to provide for the Safety and Welfare of humane Society, was originally (before Commonwealths and Courts of Justice were ordained) in the Hand of every Man, being equal to, and independent of others; but since it has resided in the
Hands

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Hands of the highest Powers, as Subjection to others hath taken away the primitive Right. However, this Power of punishing an Equal, still continues in those Places where the People are not subject to some Form of Government; and therefore those Persons that have now Possessions of any Part of *America*, or other Parts of the World lately discovered, 'till they have submitted to a Government, or put themselves under the Protection of some Power, there remains the old and natural Right of punishing Offences. *Grot. de jure Belli, &c. lib. 2. cap. 21.*

Kingdoms which have no Dependence on each other, cannot be commanded nor corrected of one another; but where Judgment is pass'd against a Person, and he flies to another Country, there may issue forth a Commission of Entreaty to the Judges in that Place where the Defendant is Resident, and the Judge to whom the Commission is directed, may award Execution, according to the Laws of Nations; adjudged in *Wier's Case, 5 Jac. B. R.* And if a *Hollander*, or Person of any other Nation, buys Goods at the Port of *London*, and gives a Note under his Hand for the Payment of the same, and then flies into *Holland*, the Vendor, upon Proof of the Delivery and Sale of the Goods, before the Lord Mayor of *London*, shall have a Certificate from the said Lord Mayor, under his Seal of Office, and the People of *Holland* will execute a legal Process upon the Party.

But in this last Case, the Merchant may be heard, as to his legal Defence; though where a Judgment is certified, the same is admitted as a legal Proof, and no Objection can be made against it, unless it be where a Man's Life is concerned, when the Determinations of foreign Judges are not to be executed, especially in *England*, before the Offender is brought to a legal Trial, and that by producing of Witnesses to his Face. *Coke, 4 Instit.*

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fol. 38. But a foreign Prince, in such a Case, may, out of Respect, and in order to an exemplary Punishment, yield up the natural Subject to his natural Lord, unless it shall appear that he is unjustly pursued; for if so, a Prince is not oblig'd to deliver up a Fugitive.

If a Man recovers in the King's Bench, in *England*, in any Plaint, and the Defendant flies over into *Ireland*, the Judgment is to be certified over into the Chancery in *Ireland*, and they will, by *Mittimus*, send it into the King's Bench there, and immediately award Execution; or, otherwise, the Party may commence an Action of Debt on the same. But in *Scotland*, the Execution of a Judgment, in a Case of this Nature, must be done by Commission of Entreaty, according to the Laws of Nations: For *Scotland* is an absolute Kingdom, and has distinct Laws. *Pasch. 24. Car. 2. B. R. Q.* *Whether the Union hath not alter'd this Course of Proceeding?*

The Plantations Abroad, which are reduced to the Condition of great Families, have no Right of Requesting; but then they are privileg'd from Arrests for any Debt or Contract, made or done in any Place, but in the same Plantation: So that if a Man contracts a Debt in *England* and flies to *Virginia*, or other Colonies Abroad, he cannot be there prosecuted: But if a Man takes up Goods, and carries the same over thither, or carries over Money borrowed, in such Cases, he may be sued there for the same. This Privilege is inviolably preserved in the Plantations, it being the greatest Encouragement to unfortunate Persons to resort thither, and there fix themselves for the Good of those Colonies.

Though the Subjects of *England* may prosecute each other Abroad, by Commission of Entreaty, yet they may not entirely have Justice done them in a foreign Nation; for no Inhabitant of *England* ought

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ought to wave the Justice of his own Sovereign, and fly into the Territory of another, but ought to seek it at Home; (unless the Defendant becomes Fugitive) if he does, he shall be put out of the Protection of the King, and forfeit his Lands, Goods, and Chattels, &c. *Roll's Abr. fol. 176.*

By the Laws of *England*, every Subject born within the King's Dominions, is a Freeman of this Realm, though he be a Bond-slave to a Subject. *Magn. Chart. cap. 14.* But a Stranger born is no Freeman 'till the King hath made him a Denizen; by whose Power alone, a Man may be made Free: And after Naturalization, all Disabilities and Incapacities are removed, and the Stranger is put intirely into the Condition, as if he had been born in *England*; except it be where he makes a Purchase of Lands, and dies without Issue, in which Case the Lord shall have the Lands by Escheat. *Cok. 1. Inst. fol. 2.*

If an *English* Man marries a Foreigner, and has Issue by her, born beyond the Seas, the Issue is a natural-born Subject. *Statute de Natis ultra Mare, 25. E. 3. Bacon's Case, 1 Cro. 601.* An *English* Merchant had Issue by a *Polish* Woman in *Poland*, and devised his Copyhold-Land to the Use of his Children. *Per Crook*, the Children are not Aliens, because the Father went with License, being a Merchant.

But if Baron and Feme, both *English*, go beyond the Seas, without a Licence, or continue there after the limited Time of the Licence, and have Issue, that Issue has been adjudged an Alien, and not capable to inherit. *1 R. 3, 4. Hide cont. Hill.*

An Alien born under the Obedience of a strange Prince or State, out of the Legiance of the King of *England*, can have no real Action here, for or concerning Lands or Tenements; (though he may sue personal Actions, as on Bond, or for Words,

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Esc.) and therefore, if he purchase to him and his Heirs, the King, upon Office found, shall have it by his Prerogative ; for an Alien can have no Heir to inherit, though he is of Capacity to take a Fee-simple ; so that if he purchase Lands, and dies, the Law doth cast the Freehold and Inheritance upon the King. *Co. lib. 7. Calvin's Case. Dyer, 283.* But the Goods of Aliens escheat not to the Crown, for an Administration shall be granted to the next of Kin. *Hobby's Case.*

An Alien may either purchase or take a Lease for Years, of a House or Warehouse, for the accommodating him, as a Merchant-stranger, where his Prince or State is in League with ours, and may retain the same ; for this is absolutely necessary, and incident to Commerce : But the Law secures him nothing but an Habitation to trade and traffick in, as a Merchant. And if he departs the Realm, the King shall likewise seize such Habitation, &c. as he may do, if the Person be no Merchant.

The Law will not give an Alien an Inheritance, or Freehold, by Descent, Courtesy, Dower, &c. but where there are several Brothers Sons of an Alien, the eldest an Alien, the other two naturalized, and the middle Brother purchase, and dies without Issue, the younger Brother shall have the Lands ; for as the elder Brother shall not take by Descent, so he shall not impede the Descent to the younger Brother. *22 Ed. 3.*

If an *English* Man shall go beyond the Seas, and there become a sworn Subject to any foreign Prince or State, he shall be look'd upon as an Alien, and pay such Impositions as Aliens do ; but if he returns to *England* again, and settles here, he shall be restored to his former Privileges. *14, 15 H. 8. cap. 4.*

An Alien Infant, under the Age of Twenty-one Years, is incapacitated to Trade, as a Merchant,
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within this Realm; nor can he legally enter any Goods at the *Custom-House*, in his own Name. And *Bracton* says, an Alien born, cannot be a Witness; but this is understood only in Case of an Alien-Infidel. Where an Alien is Party to an Action, the Sheriff ought to return twelve Aliens, and twelve Denizens on the *Venire*, otherwise it is a Mis-return. Stat. 18 *Eliz.*

Children born within any of the Places possess'd by the King's Army in Time of War, though in the Territories of a Prince never so remote, are look'd upon in Law, to be within his Protection, and not to be Aliens; but then they must be of Parents Subjects, not Hostile. 5 *Eliz. Dyer*, fol. 224.

By the Laws of Nations, in Time of War, generally all Things are the Captor's which he takes from his Enemy, or which his Enemies gain'd from another by Force of Arms; so likewise all those Goods that he shall find in his Enemy's Custody, really the Goods of an Enemy, and not otherwise.

If the Ships of any Nation arrive in any of the Ports belonging to *Great Britain*, and afterwards, before their Departure, a War happens to break out, they may be secured, privileged from Harm of Body or Goods; but only prudentially, 'till it be known how the Prince, whose Subjects the Parties are, have treated those of our Nation in their Parts. *Grot. de jure Belli & Pacis*, 3 c. 11. Sect. 12.

Where two Princes are in War, the Ships of either are secure from Hostilities in a neutral Port; but Subjects of a neutral Prince shall not assist an Enemy with contraband Goods, that is, Arms, &c. It is said the Goods may be seized and made Prize, though the War shall not be denounced or proclaimed. 3 *Eliz.* in *C. B. Owen's Rep.* fol. 45. *sed quare.*

An Alien or Stranger may sell his Merchandise by Virtue of Letters of safe Conduct, in any

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Part of *England*, and to any Persons, except the King's Enemies. 2 R. 2. c. 6. And Aliens, whose Prince is in Amity with *Great Britain*, shall have safe Conduct with Fish or other Victuals to *London*. 6 R. 2. c. 40.

Every Man who shall bring Merchandize to *London*, or other Cities, or Ports of the Sea, may vend the same in Gross, or by Retail, notwithstanding any Grants, Franchise or Custom to the contrary. 25 Ed. 3. cap 2. And both Aliens and Denizens, may buy and sell Merchandize coming to *London* in Gross, but not by Parcels, paying the usual Customs; and shall not be molested by the Citizens. 7 H. 4. c. 9.

So much for the Laws of Nations, Aliens and Denizens, &c. I shall now treat of Trade in General, and give a concise Account of the several incorporated Companies of Trade, as far as may be necessary by Way of Introduction; reserving the several Grants, Charters and Statutes for their Government, to one of the last Chapters of this Work.

For Commerce, no Nation is better situated than *Great Britain*, nor has any Country a more commodious Port than *London*; and it is by these Means, that *England*, within the two last Centuries, has rais'd herself to the highest Pitch of Power and Grandeur. Nor is there any Nation more abounding with the Commodities most necessary for human Life, and the Conveniency of it, than *England*: And as we are not without good and wholesome Laws, nothing seems to be wanting, but a due Application of them to make us the richest People in the World.

Our Trade abroad at this Time, is chiefly to *Italy*, *Turkey*, *Spain* and *Portugal*, to the *Baltick*, and the *East* and *West Indies*; besides our Fishery, which might be considerably improv'd by Industry. The *Dutch* have supplanted us in the *Eastland* and

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and *Greenland* Trades, and partly in that of *China* and *Japan*.

We have many considerable Societies of Merchants, which trade in joint Stocks, such as the *East-India* and *African* Companies, and that Part of the *Turkey* Company call'd the *Morea* Company, and the *Greenland* Company. Then there are, besides, the *Muscovy*, *Eastland*, *Spanish* and *Hudson's Bay* Companies, and Part of the *Turkey* Company, who trade upon separate Stocks; and the *South-Sea* Company.

The first Company establish'd in *England*, for the Management and Improvement of Commerce, by exporting the native Commodities of the Kingdom to other Countries, and securing the Privileges of foreign Merchants residing here, was that of the *Merchant-Adventurers*, whose Patent was granted by King *Edward I.* merely for the Transportation of Wool to *Bruges*; and the most considerable Ports in *England* and *Ireland* were made Marts for that Commodity; but we were not then so well versed in Trade, as we are now, to know the Value of that Staple-Commodity.

The next Company that was erected, was that of the *Barbary* Merchants, incorporated in *Henry* the 7th's Time; which was the Age that the *English*, in Imitation of the *Portuguese* and *Spaniards*, began to make Discoveries. But this Company decaying, out of their Ruins arose

The *Levant* or *Turkey* Company, who first trading with *Venice*, and then with *Turkey* furnish'd *England*, that Way, with the *East-India* Commodities; which till then were brought to us by Land, and to the *Portuguese* alone by Sea. This Company hath considerable Factories at *Constantinople*, *Smyrna*, *Aleppo*, &c. and they export Cloth, Kerseys, Iron, Tin, Lead, Wire, Steel, Pewter, Furs, Hides, Sugar, Elephants-Teeth, Brazeel, and several *Indian* Commodities, as Spices, Logwood, Indico,

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Indico, Cochineal, white and red Lead, &c. And they import raw Silks of *Persia*, *Tripoly*, &c. Camlets, Grograms, Mohairs, Wools, Cotton-Yarn of *Smyrna* and *Cyprus*, Gauls of *Mosolo* and *Toccat*, Currans, Oils, Drugs, *Turkey* Carpets, Cordivants, Boxwood, Rhubarb, Wormseed, Senna, *Turky* Leather, Cummin-seeds, and other rich Commodities.

The *Muscovy* Company of Merchants, trading to the *North* was incorporated by *K. Edward* the 6th, and encourag'd with additional Privileges by *Queen Mary*, *Queen Elizabeth*, &c. The Commodities they export, are all Sorts of Woollen Cloth, dy'd and dress'd, Kerseys, Cottons, Bays, Perpetuana's, Fustians, *Norwich* Stuffs, Lead, Tin, Pewter, Al-lom, Copper, Thread and Lace, ordinary Sorts of Wine and Fruits, with other Commodities of the Manufacture of *England*. The Imports, are Tar, Cordage, Cable-Yarn, Tallow, Wax, red Hides, Buff-Hides, Cow-Hides in the Hair, Goat-Skins undress'd, Cordivants, tann'd Hides, Hogs Bristles, raw Silks, Linseed, *Ising-glass*, Beaver, several Kinds of rich Furs, Train-Oil, Seal-Skins, Flax, Hemp, Linen, Cavere, Salmon, Stock-fish, Cod-fish, Rhubarb, Castorum, &c.

From the flourishing State of the *Levant* or *Turky* Company, did, in the Reign of *Queen Elizabeth*, arise the old *East-India* Company, (so distinguished from the New one establish'd in the Reign of *King William* the Third) who having fitted out Ships of Force, brought from thence at the best Hand, the *Indian* Commodities, which formerly had been sold to *England* by distant *Europeans*; and they having obtain'd divers Charters and Grants from the Crown in their Favour, were sole Masters of that advantageous Traffick; till at last, a new Company was incorporated by *King William*, they having lent the Government 2,000,000*l.* for which they at first received a yearly Revenue of 8*l.* per Cent.

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Cent. And both these Companies, after the Expiration of a certain Term, were by Articles united. They export Pieces of Eight, &c. Broad Cloath, Perpetuana's, Powder, Lead, Amber, Looking-Glasses, Knives, Scissars, Beads, Bracelets, Quick-silver, Coral, Vermillion, Allom, Brimstone, &c. And import Spices, Callicoes and Muslins, unstain'd Pintadoes of divers Sorts, Tamerinds, Saunders, Spicknard, Bezoar-stones, Aloes, Myrrh, Rhubarb, Opium, Frankincense, Borax, Cassia, Mirabolaus, Calamus, green Ginger, Camphire, Sandal Wood, Benjamine, Musk, Civit, Ambergrease, Rice, Indico, raw Silks, curious Cabinets, Pearl, and Mother of Pearl, Diamonds, and other precious Stones, cornelian Rings, fine China-ware, Furs, Skins of wild Beasts, Copper, Porcelain, China-roots, Sanguis Draconis, and other rich Drugs, &c.

In the 21st Year of the Reign of *Q. Elizabeth*, the *Eastland* Company of Merchants was incorporated; and in King *Charles* the Second's Time it was confirm'd with full Power to trade in *Norway*, *Sweden*, *Poland*, and other *Eastland* Countries. This Company exports Perpetuana's, Woollen Cloth, Kerseys, Serges, *Norwich* Stuffs, Lead, Tin, Cotton, Pewter, Stockings, Hats, Gloves, and some *Indian* Spices, &c. as also *Southern* Commodities, such as Sattins, Silks, &c. And imports Mafts, Deals, Timber, Oars, Clapboards, Baulks, Bumpars, Cautspars, Pipe-staves, Wainscot and Quarters, Flax, Hemp, Linen Cloth, Fustians, Cable-Yarn, Cordage, Pitch, Tar, Pot-Ashes, Tallow, Hides, Lattin, Copper, Steel, Wire, Corn, Quick-silver, Furs, Buck-Skins, Train-Oil, Stock-fish, Sturgeon, &c.

The Royal *African* Company had their Charter granted them in the 14th Year of the Reign of *K. Charles* the Second. They export Iron, Copper, Sheets, Slefies, Perpetuana's, Says, *Welsh* Pans, Cowries,

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Cowries, Coral, Callicoes, Nicanians, Amber, Powder, Muskets, *Turky* Carpets, Brandy, strong Waters, Spirits, Taffeties, Gingham, Beads, Buckhorn, Knives, Swords, Tallow, &c. They import Gold, Elephants Teeth, Hides, *Guinea* Pepper, red Wood, Ambergrease, &c. and a vast Number of Negroes, which they carry to the *American* Plantations, to their no small Advantage.

King *Charles* the Second, by Commission under the Great Seal of *England*, constituted his Royal Highness *James* Duke of *York*, *Edward* Earl of *Clarendon*, and other Persons of Honour, to be a Council for the Royal Fishery of *Great Britain* and *Ireland*, and declar'd himself Protector of it. And in the 29th Year of his Reign, incorporated them, and others, into a Company, calling them by the Name, *Of the Company of the Royal Fishery of England*.

By Statute 9 *Annæ*, cap. 21. to pay the Debts of the Navy and Land-Forces, of the Ordnance, Army, and Transport Debentures, &c. amounting to near ten Millions, the *South-Sea* Company was incorporated, and the Duties upon Wines, Vinegar, Tobacco, &c. were granted and continu'd for ever, as a Fund for Payment of Interest, after the Rate of 6l. per Cent.

Over and above these incorporated Companies of Merchants, there are many considerable Traders to other Parts. The *Dutch* Merchants, and those of our own Nation, trading to the *West-Indies*, carry on an advantageous Traffick to *Jamaica*, *Barbados*, *Virginia*, *Nevis*, and other Places. These Merchants export from hence all Sorts of Commodities of the Manufacture of *England*, and also those of other Nations. And the valuable Products of those Plantations, are in Abundance imported in *England*, as Tobacco, Sugars, Cotton, Indico, Ginger, Pepper, Beaver, Deer-Skins, &c. Other Nations are prohibited to deal with them.

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The *Canary* Merchants trade to the seven Islands, call'd the *Canary* Islands, and export our Manufactures, as Kerseys, Bays, Serges, Perpetuana's, *Norwich* Stuffs, Hats, Stockings, Haberdashers Ware, Iron and Tin wrought, great Quantities of Poor Jack, Pilchards, Herrings, Beef, Pork, Wheat, and other Grain; Linen Cloth, Pipe-Staves, Hoops, &c. The Imports from thence are, *Canary* Wines, Varnish, Hides, Tobacco, Logwood, Cochineal, Campechiana, Sylvester, Indico, and other *West-India* Commodities.

The *Italian* Merchants, and those which trade to *Leghorn*, *Venice*, *Genoa*, *Sicily*, &c. import Wines, Oil, wrought and raw Silk, Velvet, Plushes, Damask, Cloth of Gold and Silver, Grograms, Fustians, Allom, Annice-seeds, Rice, Almonds, Saffron, Brimstone, Gold and Silver, *Venice* Treakle, Quick-silver, looking and drinking Glasses, Marble and other rich Commodities. And they export Cloth, Bays, Serges, Says, Perpetuana's, Lead, Tin, Pewter, white and red Herrings, pickled Salmon, Pilchards, *Newfoundland* Fish, *Russia* Hides, Tallow, Calves-Skins, Tobacco, with some Drugs, and Spices of *Persia*, *India* and *Arabia*.

The *French* Merchants import Claret, white Wine, Brandy, Paper, course and fine Linen, Tabby and other Silks, Canvas, Dowlas, Buckram, Glass, Cards, Salt, &c. And export, Woollen Cloth, Kerseys, Cottons, Bays, Frizes, Pilchards, Herrings, *Newfoundland* Fish, Lead, Gauls, Cotton-Wool, &c.

The Merchants trading to *Spain* and *Portugal*, &c. import Wines of *Zeres*, *Mallaga*, Bastard *Candado* and *Alicant*; Olives, Oil, Sugar, Ginger, Fruits, Plate, Allom, white Marble, Liquorice, Annice-Seeds, Sodobarilla, Soap, Rosin, &c. And they export Serges, Says, Bays, Perpetuana's, Cloth, dy'd and dress'd Calves-Skins, Lead, Shot, Iron,

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Iron, Tin, Herrings, Pilchards, Salmon, Poor Jack, Silk Stockings, &c.

The *Dutch* Merchants, or such as trade to the *Low Countries*, *Holland*, *Flanders*, &c. import Salt-petre, Butter, Cheese, Tapestry, Quicksilver, Rhenish Wines, Furs, Pictures, Haberdashers Wares, &c. which they exchange for Woollen Cloth, Lead, Tin, Sheeps-Skins, and other *English* Commodities.

Having given a brief Account of the several incorporated Companies of Trade, &c. I come to the remaining Part of my Introduction, viz. The Advantage accruing to Princes by Merchandize; the Fame of the *English* in Discoveries; the Original of the Navy Royal of *England*; the Dominion of the Seas, and the Obedience due to the *English* Flag, &c.

I have no Occasion to search the Histories of early Times, to set forth the many Kingdoms and States that have risen by Industry and Commerce; it will be sufficient if we only observe our Neighbours the *Hollanders*, who, on a Tract of Land very little larger than some of our *English* Counties, and naturally producing not any one Commodity for Use, are at this Time the Store-house of the Merchandizes of the whole World; and from a very mean Beginning, are become a very powerful People, having justly acquir'd a Name equal to that of the greatest Monarch.

To examine a little farther, we cannot view the *Russian* Monarch without Surprize and Admiration, who, within these thirty Years past, by the great Encouragement of Commerce, and Improving of Arts and Sciences, hath rais'd his extensive Territories from a State of Barbarism and Indigence, to a polite, ingenious, and wealthy Nation; and his Empire may, in all Probability, be one Day, the greatest of any upon Earth. His Royal Example, in attending the most servile Employments himself, is of
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the greatest Consequence; and as there is no Prince in *Europe* like him for Industry at this Time, so can I find none in History to equal his Character, except our victorious third *Edward*; who, out of his great Wisdom, brought in the *Walloons*, the Industry of which People soon establish'd the woollen Manufacture here, and the King gave no less a Security to those Artificers, for the Enjoyment of their Privileges and Immunities, than his own Royal Person.

And to give only one Instance of ancient Times; *Constantinople* (the Throne once of *Christendom*) having been sack'd by *Mahomet* the 2d, became a Place of Desolation; but by granting a free Trade, and the free Use of Religion, that unhappy Place was soon re-peopled. And hence it is, that Trade and Commerce are now become the only Object and Care of all Princes and Potentates, as the Return of Commerce is Riches and Plenty, which fortifies Countries with Reputation and Strength.

It was Trade that gave Occasion to the Bringing of mighty Fleets of Ships to Sea; and it was this which stirr'd up the industrious Inclinations of active Spirits, to run all Hazards for Discoveries of the most distant Parts of the World, to their immortal Praise. The First our Histories mention, is the famous *Columbus*, (a Man born in *England*, but resident at *Genoa*;) he found out a new World, and fathom'd the *American* Shore. The next is *Sabastian Chabot*, a Native of *Bristol*, who discover'd *Florida*, and the Shores of *Virginia*, dedicated to that Virgin Princess, *Elizabeth*. Then there were *Elliot*, *Cavendish*, *Tborn*, *Owen*, *Gwyned*, *Hawkins*, *Furbisher*, *Davis*, *Stadson*, *Raleigh*, and the famous *Drake*, who was the first that encompass'd the whole World. And Sir *John Narborough*, who pass'd and repass'd the *Magellan* Streights, which was more than ever was perform'd by any Man before. Nor must I forget *Poole*, who found out the
Whale-

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Whale-fishing; *Gillan*, and *Pett*, and *Jackman*, that pass'd the *Vaigates* and *Scythian* Ices.

The first Nation that made any Figure at Sea, was the *Rhodians*; and upon the Increase of Trade, Ships of War were necessary in all Countries, for the Preservation of it in the Hands of the just Proprietors. King *Henry* the 8th was the First that began to build a Royal Navy in *England*, (tho' King *Edward* the 3d had a Fleet of 700 Ships before *Calais* :) He appointed Commissioners, and constituted a Navy-Office; at which Time, the Command of one of the King's Ships was reckon'd a Post fit for a Nobleman; tho' those Ships were small in Comparison of what the Men of War are now. In the Beginning of that King's Reign, when he equipp'd a large Fleet, and went himself to view it at *Portsmouth*, the *Sovereign* was commanded by Sir *Charles Brandon*, afterwards Duke of *Suffolk*, and Sir *Henry Guilford*, Knight of the Garter: The *Admiral* by Sir *Edward Howard*, of the noble House of *Norfolk*; and the *Regent* was commanded by Sir *Thomas Knevel*, Master of the Horse to the King; by which we see that the Captains were generally Men of Quality, and Favourites too. And 'tis said there are Lists of the Fleet of Queen *Elizabeth*, which make it appear, there was but one private Gentleman a Captain, all the rest being Lords and Knights. But such has been the Opinion of serving at Sea in later Times, that one would think none but base and obscure Persons and Tars are fit for it: And on this Account, it has been declin'd by the Nobility and Gentry; tho' no Men behave themselves more bravely than the Noblemen and Gentlemen aboard. For which, I need only instance the Right Honourable the Lord *Dursley*, (now Earl of *Berkley*) the Marquess of *Car-marthen*, the Lord *Archibald Hamilton*, Captain *Stanhope* and Captain *Mordaunt*; tho' many more could be nam'd.

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Before the Reign of King *Henry* the Eighth, our *English* Kings commanded their Fleets in Person; and the *Venetians*, at this Time, permit none but their Nobles of the first Order, to have the Command of their Navy Royal; the Having that Command qualifies a Man to pretend to the highest Preferment in the *Venetian* Republick, even the Dignity of *Doge*. And History tells us, That the Command of the *Roman* Fleet was sometimes given to Consuls, and sometimes to Prætors; which were Offices of the greatest Dignity in the *Roman* Commonwealth: And *Pompey* the Great was made Admiral to destroy the Pirates, who had made themselves Masters of the *Mediterranean*.

Our famous *Arthur*, renown'd in his warlike Achievements, led his Squadron as far as *Iceland*, and brought those *Northern* People to pay Obedience to his victorious Standard; and to acknowledge him as supreme Lord, even from the *British* to the *Russian* Tracts. His Successor, *Edgar*, finding it his undoubted Right, resolv'd to vindicate that Dominion, which his great Predecessor had, with so much Glory, acquir'd, and with so great Care remitted down to him. For this Purpose, he fitted out a Fleet of 400 Sail, and cover'd the Neighbouring Ocean, making them the Portcullis of this Island, and the adjacent Seas; and in the Year 937, King *Edgar*, sailing about *Britain*, with a mighty Navy, and arriving at *Chester*, was there met by Eight petty Kings, coming to do him Homage; and 'twas at this Meeting, that this Monarch was row'd down the River *Dee*, by those Kings, himself steering the Boat: A marine Triumph, which is not to be parallell'd in the Histories of *Europe*. And *Canutus*, *Edgar*'s Successor, laid the ancient Tribute, call'd *Danegeld*, for the Guarding of the Seas, and Sovereignty of them, with the following Emblem express'd, *viz.* Himself sitting on the Shore in his Royal Chair, while the Sea was flowing,

C

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ing, speaking, *Tu meæ ditionis es, & terra in qua sedeo est, &c.* Egbert, Althred and Elfred, kept up the Dominion and Sovereignty of their Predecessors, stiling themselves supreme Lords and Governors of the Ocean surrounding the *British* Shore. Nor did the succeeding Princes of the *Norman* Race, wave this great Advantage, but made successive Claims, and maintain'd their Right to the adjacent Sea; and the Honour or Duty of the Flag, the great and politick King *John* challeng'd, not barely as a Civility, but as a Right to be paid, *cum debita reverentia*; and the Persons refusing he commanded to be assaulted, and taken as Enemies: And the same was not only to be paid to whole Fleets, bearing the Royal Standard, but to those Ships of Privilege that wear the Prince's Ensigns or Colours of Service: This Decree was confirm'd, and bravely asserted by a Fleet of 500 Sail, in a Royal Voyage to *Ireland*, wherein he commanded all the Vessels which he met with in his Way, in the eight circumfluent Seas, to pay that Duty and Acknowledgment.

The *Dominion of the Sea* is the Sovereignty of such a Part of it as bounding any Country may be said to belong to it; and also extends as far as certain imaginary Lines or Marks: But it is impossible to have a Title to the Dominion of the whole Ocean, unless a Prince were Sovereign of the whole World: And a bare Possession of the Shoar is not sufficient to intitle any People to a Right to the adjoining Sea; without the actual Use and Enjoyment of the Sea, and exercising the Functions of a Sovereign upon it; such as prescribing Rules of Navigation, punishing Delinquents, protecting others, and receiving the Profits and Emoluments due to every lawful Sovereign. The *Kings of England* have always had the Dominion and Sovereignty of the adjacent Seas; and *intra Regnum*, within the Kingdom, and *intra quatuor Maria*, within the four
2 Seas,

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Seas, have one and the same Signification, viz. That all the Actions done in those, are deem'd to be done in *England* it self. The Dominion of the Sea intitles the lawful Possessors to several Prerogatives; as the Granting Liberty and Licence to fish therein; to impose Tribute; execute Justice for Matters done on the Sea; to grant free Passage through the Sea, or deny the same; and to demand Obedience to the Flag of the Ships of War of the Sovereign of those Seas.

By the *British Seas*, relating to the Flag, are meant the four Seas and not the Channel only; and as there is no Nation in the World more tender and jealous of their Honour than the *English*; so, in all Treaties of Peace, before any Thing is ascertain'd, the Dominion of the Sea, and Striking the Top-sail, is always first provided for. This Duty of the Flag, which hath been constantly paid to our Ancestors, is of such Advantage to this Nation, that it serveth to imprint new Reverence in Foreigners, and adds new Courage to our Seamen; and Reputation abroad is the principal Support of any Government at Home.

If any Ships navigate in the *British Seas*, they are to salute the Ships of War, by lowering the Top-sail, and striking the Flag, as in like Manner they shall do the Forts upon Land; by which Submissions they are put in Mind, that they are come into a Territory, wherein they are to own a sovereign Power and Jurisdiction, and receive Protection from it. And the Crown of *England* can with Justice demand an Account of any Ship, or Ships, occurring in the *British Seas*, what's their Business, and what their Intentions are; and prohibit any Prince, or Republick, to enter there with Fleets or Shipping, without first acquainting the King of *England*, and obtaining his Royal Permission.

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As to this Homage due to the King of *Britain's* Flags in the four Seas, it may be exacted of natural-born Subjects; and such of them as refuse to pay the same, (if it can be done without impeding the Voyage) are to be brought to the Flag, to answer the Contempt; where they may be detain'd, 'till they pay the Charge of the Shot, which their Negligence or Obstinacy occasion'd; after which, the Name of the Ship and Master, with the Addition of his Place of Residence, and of the Port to which he is bound, being return'd to the Admiral, he may be indicted, and severely punish'd for his Offence.

And if any Ships of War, belonging to the King of *Great Britain*, shall enter into any Harbour of any foreign Prince or State, or into the Road, within Cannon-Shot of some Fort or Castle, such Marks of Respect must be paid, as are usually there expected; and then the Commander is to send ashore, to inform himself what Return they will make to his Salute, and if he receives Assurance, that he shall be answer'd Gun for Gun, the Port is to be saluted as is usual; but without such an Assurance, the Port is not to be saluted. And in the first Case, before the Port is saluted, the Captain ought to inform himself, how Flags (of the same Quality with that he carries) of other Princes have been saluted there, the which is peremptorily to be insisted upon.

I shall conclude this Introduction with a short Account of the Invasion of *Julius Cæsar*, and the Motives which induc'd him to it. When *Julius Cæsar* first undertook the Invasion of this Isle, he demanded of the neighbouring *Gauls*, to inform him of the Shores, Ports, Havens, &c. that might accelerate his intended Conquest; but he could learn nothing from them, they answering, that all Commerce, and Traffick, and Communication with our Ports, was interdicted to all Nations, before

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fore Licence had and obtain'd; nor could any but Merchants visit the same, and even those had Places assign'd them, whither they should come; nor was this Dominion, that the *Britons* then enjoy'd, secur'd without a sufficient Naval Force; the Sight of which, when *Cæsar* saw, he prefer'd them before those of the *Romans*: For upon that Occasion it was that *Cæsar*, having seen those auxiliary Squadrons which the *Britons* sent the *Gauls*, in their Expeditions against the *Romans*, took Occasion to find out that warlike People, whose bare auxiliary Aid shook the Flower of the *Roman* Squadrons. And when the *Romans* became Conquerors of this Isle, the same Right and Dominion was, during all their Time, supported and maintain'd.

This concise Account of the Original of the Navy Royal of *England*, the Dominion of the Seas, and the Obedience from other Nations to the *English* Flag, altho' it be not directly in the Way of Trade, will, I doubt not, be acceptable to all curious Merchants; as it illustrates the Honour of the *English* Nation, the Bravery and Strength of the Inhabitants, and the Pains and Industry our Ancestors took to acquire Wealth and Reputation in the World; for the Preservation and Encreasing whereof, they are certainly worthy our Imitation and Emulation. I now proceed to Owners and Masters of Ships, their Rights and Obligations, &c.

C H A P. I.

Of Merchants, Owners, and Partners of Ships; their Rights, Privileges, and Obligations, illustrated in Variety of special Cases: Of Money advanc'd by Way of Bottomry, &c. With Precedents of Bills of Sale, Bills of Bottomry, Bills of Adventure, Letters of Licence and Composition, &c.

MERCHANTS in *England*, were always particularly regarded by the Common Law. By the ancient Laws of King *Alfred*, it was provided, *Defendue fuit, que nul Merchant-Alien, ne bantast Angleterre, forsque aur quater Faires, ne que nul demeureast in la terre outer quarante jours: Mirour, cap. 1. sect. 3. Mercatorum navigia, vel inimicorum quidem quæcunque ex alto (nullis jactata tempestatibus) in portum aliquem invehentur, tranquilla pace fruuntur, quinetiam si maris acta fluctibus, ad domicilium aliquod illustre, ac pacis beneficio donatum navis appulerit inimica, atque istuc nautæ confugerint, ipsi & res illorum omnes augusta pace potiuntur. Inter Leges Ethel. cap. 2.*

And by the Grand Charter it is declared, That Merchant-Strangers may be prohibited to trade into this Realm, be they in Amity, or otherwise. But all Merchant-Strangers in Amity, not publickly prohibited, shall have safe Conduct to depart out of, and come into, *England*, to tarry here, and travel by Water or Land, in, and thro' *England*; and

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and to buy and sell, &c. *Magna Charta*, cap. 30. And *Merchants-Alien* are to be us'd in this Realm, as Denizens are in others, by the Statute 5 H. 4. cap. 7. All Merchants (except Enemies) may safely come into *England* with their Goods and Merchandizes: And Alien Merchants are to have forty Days Notice to sell their Effects and depart, on any Difference with a Foreign State, &c. 14 & 27 E. 3.

The municipal Laws of *England*, or indeed of any Realm, are not sufficient for the Ordering and Determining the Affairs of Traffick, and Matters relating to Commerce; Merchandize being so universal and extensive, that it is, in a Manner, impossible. The *Law-Merchant* (so call'd from its universal Concern) all Nations take special Knowledge of; and the Common and Statute Laws of *England*, leave the Causes of Merchants, in many Cases, to their own peculiar Law. As for Instance: In the Reign of *Edw. 4.* a Merchant-Stranger made Suit before the King's Privy Council, for certain Bales of Silk, feloniously taken from him; wherein it was mov'd, that this Matter should be determin'd at Common Law; but the Lord Chancellor answer'd, that as this Suit was brought by a Merchant, so he was not bound to sue according to the Law of the Land. 13 *Edw. 4. c. 9, 10.* And if the Merchandizes of a Merchant-Stranger are stol'n, and wav'd by a Felon, the King shall not have them as Waifs; as in the Case of a common Person. 27 *Edw. 3. cap. 20.*

But every one that buys and sells, is not under the Denomination of a Merchant; only the Persons who traffick in the Way of Commerce, by Importation or Exportation, or carry on Business in Way of Emption, Vendition, Barter, Permutation, or Exchange, and which make it their Living to buy and sell, by a continu'd Assiduity, or frequent Negotiation, (in the Mystery of Merchandizing, are esteem'd Merchants. Those that buy

24 *Lex Mercatoria*: Or, The

Goods to reduce them by their own Art, or Industry, into other Forms than they are of, are properly call'd Artificers, not Merchants. But Bankers, and such as deal by Exchange, are regularly call'd Merchants.

In Foreign Countries, the usual Method of buying and selling of Commodities, between Merchants, is by Bills of Debt, or Bills obligatory, which, by the *Law-Merchant* are there alienable, or assignable, but not by our Law; but by Custom, foreign Bills of Exchange are assignable by Endorsement. *Lex Mercat.* 71. And by a late Statute, Bills of Exchange are assignable over.

Merchants abroad are very circumspect in giving a Character one of another, least unawares they thereby become Sureties. A Merchant at *Frankfort* in *Germany*, during the Mart-Fair there, being in a Merchant's Warehouse, where was another Merchant of his Acquaintance, cheapening a Parcel of Silk-Wares, unknown to the Seller, and the Seller asking him, whether he were a Man of good Credit, who answer'd he was; whereupon the Bargain was made, and the Goods deliver'd to the Buyer to a considerable Value, for which he made a Bill obligatory, payable the next Fair following; at which Time, the Buyer not appearing, Demand of the Money was made of the Merchant that gave the Buyer the Character; but he refusing to pay the same, a Suit was thereupon commenc'd, and he was oblig'd to pay the Money; and all the Recompence he had to reimburse himself, was the Buyer's Bill obligatory assign'd over to him, which was of no Value, for that the Buyer became insolvent. This Determination was according to the Civil Law, and general Law and Custom between Merchants. *Lex Mercat. c. 10. f. 69.*

Merchant-Strangers are to find Sureties, that they shall not carry out the Merchandize which they

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they bring into *England*. 18 *Ed. 2. c. 21*. And if they bring in any Merchandise into the Realm, and sell it for Money, they are to bestow the same upon other Merchandises of *England*, without carrying away any Gold or Silver in Coin, Plate, or Mass, on Pain of Forfeiture. 4 *H. 4. c. 5*. 5 *H. 4. c. 9*. The same at this Time extends as well to Denizens as Strangers; however, they may use the same in Payment to the King's liege People, without incurring the Penalty, though in Strictness of Law, they ought not to receive any Gold in Payment. 3 *H. 7. c. 8*. The principal Reasons of these Laws were to preserve and keep the Gold and Silver within the Realm, and for the Increase of the Manufactures, by encouraging their Exportation Abroad.

In former Times it was conceived, that those Laws which were prohibitory against foreign Goods, did not bind a Merchant-Stranger: But it has been a long Time since rul'd otherwise; for in the Leagues that are now established between Nation and Nation, the Laws of either Kingdom are accepted; and therefore as the *English* in *France*, or in any other Nation in Amity, are subject to the Laws of that Country where they reside, so must the People of *France*, or any other Country, be subject to the Laws of *England*, when resident here. 19 *H. 7*.

A Merchant deliver'd Goods to his Factor, to be sold in *Spain*, the Factor sold them to one who became a Bankrupt; (and there is a Law in *Spain*, that if the Factor enter this before a Register, and obtains a Testimonial, that he shall be discharged). It was adjudged here, that he shall be discharged accordingly. *Capp's* and *Tucker's Case*. 2 *Roll's Rep.* 497.

The Wares, Merchandises, Debts, or Duties that Merchants have as Joint-Traders or Partners, on the Decease of either, shall not go to the Survivor,

26 *Lex Mercatoria*: Or, The

vivor, but to the Executor of the deceased ; and the surviving Merchant shall be obliged to join in an Action with the Executor for Recovery thereof. *Levins* 188. *Hall* against *Huffam*.

Where two Merchants have a joint Trade, and one of them only accepts a Bill of Exchange, if he do not pay it, an Action lies against the other. *Per Twifden, Stiles* 370. But the regular Method is to proceed against both.

If two Merchants are found in Arrear upon an Account, and they promise to pay it at certain Days, but do not, then either of them may be charg'd for the Whole singly ; and an Action of the Case will lie on the *Custom of Merchants*. *Child* against *Guyot*, 2 *Roll's Abr.* 702.

In Case two joint Merchants occupy their Stock, Goods, and Merchandise in common, to their common Profit, one of them naming himself a Merchant, shall have an Account against the other, naming him a Merchant, and shall charge him as a Receiver. *Co. Litt. fol.* 172.

If one Merchant draws a Bill of Exchange upon another, either at Home or Abroad, the Acceptance of the Bill by the Party, shall bind him to that Party to whose Use the Money in the Bill is mention'd to be paid, and he may bring his Action in his own Name, *per legem Mercatoriam*. And so it is in Respect to a third Person that is a Stranger to the Bill ; if he accepts the same for the Honour of the Drawer, it shall bind him as effectually as the other.

No Man shall set the Mark of another on his Goods, to the Intent to bring him into any Trouble or Damage, or to put him to any Expence ; but by the Common Law, an Action of the Case will lie ; for both the Common Law and the Civil Law hath great Respect to the marking of Goods, in Relation to the settling the Property of the Merchandise in the right Owner : And the *Cutlers* of
London

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London give to each Member a particular Mark, which cannot be appropriated without a particular Order and Leave of the Company and Party; and so of other Companies. 2 *Cro. fol.* 471.

Merchants, Traders, and others, desiring to end any Suit or Controversy, for which there is no other Remedy but by personal Action, or Suit in Equity, by Arbitrament may agree, that their Submission of the Suit to the Award or Umpirage of any Person or Persons, shall be made a Rule of Court on Record, in any of his Majesty's Courts, which the Parties shall chuse, and may insert such their Agreement in their Submission, or the Condition of the Bond or Promise; and when 'tis enter'd of Record, the Parties shall submit to, and be finally concluded by such Arbitration or Umpirage. Stat. 9 & 10 *W. 3. c.* 15.

By Statute 1 *W. & M.* If any Merchant, Vintner, Wine-Cooper, or other Person selling Wines by Wholesale or Retail, shall corrupt or adulterate any Wine, or utter any Wine corrupted or adulterated, they shall forfeit 300*l.* for every Offence; one Moiety to the King, the other to the Prosecutor.

And the Statute 7 *Annæ*, enacts, that no Merchant, or Trader, within the Description of any of the Statutes of Bankrupt, putting himself under the Service of any Ambassador, shall be thereby privileg'd from Arrests, &c.

Merchants are not restrain'd to depart the Kingdom, as all other Subjects are, without License; for they may depart and live out of the Realm, and the King's Obedience, and the same is no Contempt, they being excepted out of the Statute of 5 *R. 2. c.* 2. *Mich.* 12. and 13 *Eliz. Dyer. fol.* 206. And by the Common Law, they might pass the Seas without Licence, though not to merchandise.

By

28 *Lex Mercatoria*: Or, The

By Stat. 3 *Annæ*, all Trade with France was prohibited; but by 9 *Annæ* c. 8. the Prohibition of French Wines is repealed, and Merchants may import French Wine in any Ships of 70 Tuns Burthen, so as the same comes directly from France into Ireland, and from thence to England: But before such Ships return to France, they are to be loaden with English Goods to the Value of the Wines; and Oath is to be made before a Custom Officer, that the Goods are intended to be Landed in France, &c.

The 7 *Geo.* c. 3. and 8 *Geo.* c. 10 oblige Ships coming from Places infected with the Plague, to perform *Quarentine*: And Persons quitting Ships before Quarentine is performed, shall forfeit 200*l.* The King may make Orders concerning Quarentine, &c. and is enabled by Proclamation to prohibit Commerce with any Country visited with the Plague. And if any Persons shall trade contrary to the King's Proclamation, their Ships and Goods shall be forfeited. Also Officers of Ports may resist the Entrance of Ships by firing of Guns, &c.

Merchants or others going to Places infected, incur a *Præmunire*; and coming from such Places are Guilty of Felony. Stat. *ibid.*

Owners and Partners of Ships.

As to Owners of Ships, if a Ship be new built, and has never made a Voyage, or is newly bought, by the Law Marine she ought to be subject to one Voyage, upon the common Hazard, before any of the Owners shall be permitted to separate and discharge their Parts; but by the Laws of England, the Owners may, before any such Voyage, convey away, or assign over their Right.

And

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And if there be several Owners of a Ship, and they happen to disagree, the Ship, notwithstanding, may make one Voyage at their common Expence, before any Terms of dissolving the Partnership shall be so much as heard; if after that they cannot agree, the Party requesting to be discharg'd, is to make an Offer of his Part to the rest at the Price he will either give or take, and he shall be admitted to separate; but if he will not make such an Offer of Sale, the rest of the Owners and Partners may forthwith rigg the Ship at their own Charge, and upon the Adventure of the Refuser, so far as his Share doth extend, without any Account to be made unto him of any Part of the Profit at her Return: But they are obliged to bring the Ship Home safe, or to answer him the Value of his Part. And if the Partners, who have the greatest Share or Part of the Ship, refuse to continue the Partnership, with one who hath but one Part, or a small Share in the Ship, who cannot, without Prejudice, sell his Part at a Price set, nor has Substance sufficient to buy the Parts of the rest; in such Case, all the Partners are bound to put the Ship to an Appraisement, and either to dispose of her by Sale, or to set her forth on the Voyage, according to such Appraisement. And if, for want of Buyers, the poor Partner cannot avoid the Oppression of the Richer, then may the Judge of the Admiralty sentence or decree the same. *Lex. Mercat.* 120, 121.

Where a Ship is sold, together with her Tackle, Furniture, Apparel, and Appurtenances, yet by these Words, the Ship's Boat is not conveyed, but that remains the Owners; so it is if the Ship, after freighted out to Sea, commits Piracy, and is forfeited, the Boat is still the Owners. And Ballast is no Part of a Ship's Furniture.

If the major Part of the Owners and Partners of a Ship protest against a Voyage, and there is
but

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but one left that is for the Voyage, yet the same may be effected by that Party, if there be Equality in Partnership.

If a Ship be taken away, or the Owners disposse's'd, they may maintain an Action of Trover and Conversion for any Part or Share. In an Action on the Case, the Plaintiff declar'd, that he was Owner of the 16th Part of a Ship, and the Defendant Owner of another 16th Part of the same Ship. The Plaintiff set forth, that the Defendant fraudulently carried the said Ship to a Place beyond Sea, and disposed of her to his own Use, by which the Plaintiff was deprived of his Part to his Damage. The Defendant moved in Arrest of Judgment that the Action did not lie; for though it be found a Deception, yet this did not help it, if the Action did not lie on the subject Matter; and there being here Tenants in Common of the Ship, (and by *Littleton*, between Tenants in Common there is not any Remedy) there cannot be any Fraud between them, because the Law makes a Supposition of a Trust and Confidence betwixt them. *Graves against Sawcer. Raymond 15. 1 Lev. 29. But Noy 14, contra.*

And where a Man gets Possession of a Ship, having no just Title to the same by the Law Marine, he shall be obliged to answer and make good so much for Damages, as the Ship, in all Probability, might have earn'd. *Dig. lib. 6. tit. 1. 62.*

If a Ship commits the Crime of Piracy on the Seas, by reason whereof she becomes forfeited; if it be made out, that before the Seizure she was *bona fide* sold, the Property of the Owners shall not be questioned, nor they devested of the same. *Mich. 13 Jac. in B. R. Sir Richard Bingley's Case, Roll's Abr. fol. 530.* And, on Importation of prohibited Goods, the Ship cannot be seized as Forfeited, till a Condemnation in the Exchequer is obtain'd thereon. *Horne cont. Ivey 2 Keeble, 604.*

By

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By Statute 4 & 5 W. & M. c. 15. all Persons who, by Way of Insurance, or otherwise, shall undertake to deliver any Goods imported from beyond Sea, without satisfying the Duties payable for the same, or any prohibited Goods, shall forfeit 500*l*. And all Persons who shall agree to advance any Money for the insuring or conveying any Goods imported, without paying the Duties, or any prohibited Goods, or such other Goods before the Duties paid, knowing thereof, shall also be liable to the like Penalty.

And if the Insurer or Manager of such Fraud shall make a Discovery, he shall not only keep the Insurance-Money given him, and be discharg'd of the Penalties to which he is liable, but shall have one Half of the Penalties imposed upon the Parties making such Insurance, or receiving the Goods as aforesaid: And in Case no Discovery be made by the Insurer, and the Party insured shall make discovery thereof, he shall recover back his *Premium*, and have one Moiety of the Forfeitures imposed upon the Insurer, and be discharged of those imposed upon himself.

The Penalties and Forfeitures to be recoverable according to the Course of the Exchequer, on a Prosecution commenc'd within twelve Months after the Fact committed.

If any Goods or Merchandise shall be laden, or taken in from the Shore into any Bark, Hoy, &c. to be carry'd aboard any Ship or Vessel outward-bound for Parts beyond the Seas, or shall be laden, or taken in, from, or out of any Ship or Vessel, coming in, and arriving from foreign Parts, without the Warrant, and the Presence of one or more Officers of the Customs, such Bark, &c. shall be forfeited, and the Master, &c. knowing and consenting, shall forfeit the Value of the Goods so shipp'd. Stat. 12 Car. 2.

No

By

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No foreign-built Ship or Vessel shall be deemed as a Ship or Vessel belonging to *England*, or enjoy the Benefit or Privilege of such a Ship, until the Owners prove by Oath that they are not Aliens ; and that the Ship was *bona fide* bought by them for valuable Considerations, &c. And that no Foreigner hath any Part or Interest therein ; and upon such Oath, the Officers of the Customs are to give Certificates, &c. And all foreign-built Ships so proved by Oath, that they do not belong to Aliens, &c. and having Certificates under the Hands and Seals of the Chief Officers, intitle the Merchants to the Privilege of free Ships. *Act of Navigation, 12 Car. 2.*

But by the Act against Frauds, 14 *Car. 2.* no foreign-built Ship was to enjoy the Privilege of a Ship belonging to *England*, until listed and transmitted into the Exchequer ; except such Ships only as shall be taken at Sea by Letters of Mart, or Reprisal, and Condemnation made in the Court of Admiralty as lawful Prize. And in the Preamble of the Statute 19 *Car. 2.* it is declared, That Prize-Ships may not be free for Trade, but by Act of Parliament : But Sir *William Jones*, Solicitor General, was of Opinion, that the King, by Letters Patent under his Great Seal, might dispense with the Statute, and grant unto the Owners of foreign-built Ships a free Privilege, with a *Non obstante* to the Statute.

No Wines shall be imported into *England* in any Ship whatsoever, but in such as do truly belong to the People thereof, (except it be the Ships as are built in the Country where the said Wines are produced) under the Penalty of Loss of Ships and Goods. And all Wines that shall be imported in any other Ship or Vessel than which doth truly belong to *England*, shall be deem'd Aliens Goods, and be liable to pay Strangers Customs. This is

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provided for Prevention of Frauds, in concealing Aliens Goods. Stat. 12 Car. 2.

By Stat. 22 H. 8. c. 8. and 1 Eliz. c. 1. all Merchant-Strangers that shall be made Denizens, either by the King's Letters Patent, or by Act of Parliament, are obliged to pay for their Merchandise the like Custom and Subsidy, as they ought or should pay before they were made Denizens.

By the Act 12 Car. 2. it was enacted, That if any Goods and Merchandise of any Merchant, *English*-born, or Denizen, should be taken by Enemies or Pirates, or perish in the Seas, whereof the Subsidies and other Duties are paid or agreed for; on due Proof made before the Lord Treasurer of *England*, or Chief Baron of the Exchequer, by two credible Witnesses, &c. then the Merchant was to have the Liberty to ship out the like Quantity of such Goods discharg'd of Customs.

In the main Sea, or an Arm of the Sea, a Ship may not become a *Deodand*, though any Body be drowned out of it, or otherwise receive their Deaths; because on such Waters Ships are by Winds and Tempests unavoidably subject to Dangers. But a Ship or Vessel being upon a fresh River, where there are no such Hazards, may become *Deodand*. 3 Inst. fol. 58. Rot. Parliam. 51 Ed. 3. 1 H. 5.

A Ship lying at *Rotherbith*, near the Shore to be made clean, it happen'd that one of the Shipwrights being at Work under her at low Water, the Vessel then leaning aside, turn'd over to the contrary Side, by means of which the Shipwright was kill'd; the Ship was adjudged *Deodand*, and the Jury found a Verdict for the Lord *Salisbury*, Lord of the Manor, against the Lord Almoner, who insisted on it as a Matter not granted out of the Crown. Mich. 29. Car. 2. B. R.

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If a Ship be broken up, or taken in Pieces, with an Intent to convert the same to other Uses, and afterwards upon Change of Mind, she be re-built with the same Materials, yet this is now another, and not the same Ship, especially if the Keel be ript up or chang'd; and when once the whole Ship is taken asunder and re-built, there determines the Partnership *quoad* as to the Ship. But if a Ship be ript up in Parts, and taken asunder in Parts, and repaired in Parts, yet she remains still the same Vessel; and 'tis said this holds Good, though she had been so often repaired, that there remains not one Stick of the original Fabrick.

If a Man shall repair his Ship with Plank, or other Materials belonging to other Persons, yet shall the Ship maintain her first Owners. But if a Man take Plank and Materials belonging to another, prepared for the Use of Shipping, and with them built an intire new Ship, the Property of the Vessel follows the Owner of the Materials, and not the Builder.

When a Ship is built and freighted out, and accordingly the Master receives in her Lading pursuant to Agreement, and afterwards an Embargo happens, whereby the Lading is taken as forfeited; the Owners shall, notwithstanding, receive Freight, for here is no Fault in them, but only in the Merchant. *Digest. lib. 19. Tit. 2. 61.*

A Master of a Ship or Vessel, is to be chosen by the Part-Owners in Proportion to their Concerns, not by the Majority; and the Man that is most able is to be preferr'd. He ought to be a Person of Honesty as well as Ability, for on him rests the Charge, not only of the Vessel, but of the Lading; and his Actions the Owners are subject to answer, in relation to all Damage that shall be sustained by him or his Mariners, either in the Port or out at Sea, in respect to the Lading of Goods,
both

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both by the common Laws of *England*, and the Law Marine. 18 H. 8. Hil. 23 Car. 2. B. R. Morfe *versus* Slue.

But if a Master commits any Offence wilfully, or through Negligence, he shall be answerable to his Owners, and be compelled to make Satisfaction for the Damage; and in such Case they are not obliged to join in the Action, but may sue separately: So likewise, if the Ship hath earned Freight, and Part of the Owners have received their Parts, and the rest have not, they may bring their Action for their Share, without joining with the others. Hil. 26 & 27 Car. 2. Stanley *versus* Arles.

Where Goods are transported for Hire, and no Contract is made with the Proprietors of the Ship, there the Master is chargeable for the Goods in Respect of his Wages, and the Owners in Respect of their Freight, that they receive for the Carriage of the Goods, at the Election of the Plaintiff. Per Holt Ch. Just.

If a Master of a Ship or Vessel shall take up Money for a necessary refitting or victualling his Ship, the Owners and Ship are liable to make Satisfaction to the Creditor, though the Master employ the Money to another Use. But if a Master shall take up Money to mend or victual a Ship, where there is no Occasion, the Owners shall not be answerable, but the Master only. So likewise for more than is necessary. Bridgeman's Case. Hob. fol 11, 12. Moo. 918.

Of Bottomry.

If Owners of Ships disagree in setting out a Ship, most Voices shall carry it; and then Money may be taken up for their Parts by *Bottomry* or *Fæ-*

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nus Nauticum. Scarborough and Lyrius. Pasch. 3. Car. in B. R. Noy 95.

Money lent to Sea is allowed a larger Interest than when advanced on Land, by Reason it is furnished at the Hazard of the Lender to carry over Sea, and if the Ship perishes, the Lender shares in the Loss; so that there is no real Security, as in Case of Lands, &c. And the greater the Danger is, if there be a real Adventure, the greater may be the Profit reasonably required for the Money advanced. And this hath been the Opinion of Civilians; and all or most Part of the trading Nations in *Christendom* allow it. *Leg. Fœn. Naut. Leg. Periculi cod Lex Mercat. 122.*

A Master of a Ship may not take up Money by *Bottomry*, in Places where his Owners reside, unless he is a Part-Owner, (as Masters usually are at this Time, and is the greatest Security for their faithful Service) and in that Case he may only take up so much as his Part will answer in the said Ship. If he exceeds that, his own Estate is liable to make Satisfaction. But when a Master is in a strange Place or Country, where he hath no Owners, nor any Goods of theirs, nor of his own, and for Want of Money his Voyage might be retarded, there Money might be taken up upon *Bottomry*, and all the Owners are liable thereunto; but this is understood where it cannot be procur'd by Exchange, or any other Means; and in the first Case the Owners are liable by their Vessel, though not in their Persons; but they have their Remedy against the Master. *Leg. Oleron R. 1. Leg. 4.*

Where Bonds or Bills of *Bottomry* are seal'd, and the Money is paid, if the Ship receives Injury by Storm, Fire, Enemy, or any other Accident, before the Commencement of the Voyage, then the Person borrowing only runs the Hazard, unless it be otherwise provided; as, that if the Ship shall not arrive at such a Place at such a Time,

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§c. there the Contract hath its Beginning, from the Time of the Sealing; but if the Condition be, That if such a Ship shall sail from *London* to *Amsterdam*, and shall not arrive there, §c. then, §c. there the Contingency hath not its Beginning till the Departure. And if a Master takes up Money, and buys in his Lading, but endeavours to defraud the State of the Customs, or puts such Goods on Board which incur a Forfeiture of the Ship; in such Case the Borrower only runs the Hazard.

Money advanc'd in *Bottomry* is either on the bare Ship, (the common Way) or upon the Person of the Borrower, and sometimes upon both. The first is, where a Man takes up Money and obliges himself, that if such a Ship shall arrive at such a Port, then to repay, perhaps, sometimes, in long Voyages, near double the Sum lent; but if the Ship happens to miscarry, then nothing. This Money is likewise called *pecunia trajectitia*, because that upon the Lender's Hazard or Adventure, it is carry'd beyond the Seas; and if the Ship be spoil'd, the Lender loseth his whole Money advanced. But when Money is lent at Interest, it is deliver'd at the Peril of the Borrower: And the Profit of this is merely the Price of the Loan; but the Profit of the other is a Reward for the Danger and Adventure of the Sea, which the Lender takes upon himself, and makes the Interest lawful. *Sea-Law*, 206, 207.

Then there's *Usura Marina*, joining the advanc'd Money and the Danger of the Sea together; and this is sometimes obligatory to the Borrower's Ship, Goods, and Person. As where a Merchant of Credit goes beyond Sea, and a private Gentleman advances a Sum of Money to be laid out at the Discretion of the Merchant, and agrees to bear the Adventure of the Money, during the whole Voyage; and the Contract is agreed upon at 6l, *per Cent.* as Interest, and 12 *per Cent.* for the Adventure

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venture outwards ; and 12 *per Cent.* for the Goods homeward : Or Terms like these.

If Money be lent on Ship-board by a Merchant or Passenger, and before the Day of Payment the Ship happens to be wreck'd, or otherwise cast away, if there be such a Saver as will admit a Contribution, the Party is not to have his whole Money, but is to come into the Averidge : But if the Time of Payment be past before the Misfortune happen'd, the Lender must be repaid his whole Money. *Leg. Naval. Artic. 17.* And therefore by the Laws Marine, if the Borrower detains any Money so lent, beyond the appointed Time of Payment, at his Return in the Voyage, he shall not only pay the Profit agreed on before the Voyage, but also be oblig'd to augment the same in Proportion for the Time accru'd since the Day of Payment. *Artic. 18.*

Many Masters of Ships having insured or taken up Money upon Bottomry, to a greater Value than their Adventure, have made it a Practice to cast away, burn, or otherwise destroy the Ships under their Charge ; by Stat. 10 *Car. 2. c. 6.* the Crime was made Felony, and the Person and Persons offending were to suffer Death. And by a Statute made in the first Year of the Reign of Queen *Anne*, To wilfully cast away or destroy a Ship, or procure the same to be done, is made Felony. See also Statute 4 *Geo. c. 12.*

PRECE-

PRECEDENTS.

A Bill of Debt from one Merchant to another.

I *A. B.* of the City of *Amsterdam*, Merchant, do by these Presents acknowledge my self to be indebted to *C. D.* of, &c. *English* Merchant, in the Sum of Seven hundred and fifty Pounds of lawful Money of *Great Britain*, for divers Wares and Merchandizes this Day bought and receiv'd of him; which Sum of Seven hundred and fifty Pounds, I do hereby promise and oblige my self, my Executors, &c. to pay unto the said *C. D.* or the Bearer hereof, within six Months next after the Day of the Date of these Presents. *Witness* my Hand this Day, &c.

A Conditional Bill of Credit.

W *Hereas* *C. D.* of, &c. Merchant, hath undertaken to pay for me *A. B.* of *London*, Merchant, or for my Use, unto *E. F.* of *Amsterdam*, the Sum of Five hundred Pounds of lawful *British* Money, on, &c. next. *Now these Presents witness*, and I the said *A. B.* do hereby for my self, my Executors and Administrators, promise and agree to and with the said *C. D.* that on producing an Acquittance under the Hand of the said *E. F.* for the said 500*l.* or any other Writing shewing the Certainty of the Payment of the said Money, and on Delivery thereof to me; That then I, my Executors or Administrators; shall, and will immediately, upon Receipt of the same, pay, or cause to be paid unto the said *C. D.* his Executors or Assigns,

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the Sum of 505 *l.* of lawful Money of *Great Britain*; the said 5 *l.* as a Gratification for his Trouble in this Affair. And for the sure Payment thereof, I do hereby bind my self, my Executors, &c. by these Presents. *In Witness, &c.*

A Bill of Bottomry.

TO all People to whom these Presents shall come, I *A. B.* of, &c. Owner and Master of the Ship call'd, &c. of the Burthen of Three hundred Tuns, now riding, &c. and bound for, &c. in the *West-Indies*, send Greeting. Whereas I the said *A. B.* am at this Time necessitated to take up upon the Adventure of the said Ship call'd, &c. the Sum of One hundred Pounds, for setting forth the said Ship to Sea, and for furnishing her with Provisions, &c. for the said Voyage, which *C. D.* of, &c. Merchant, hath on Request lent unto me, and supply'd me with at the Rate of 20 *l.* for the said 100 *l.* during the said Voyage. Now know ye, that I the said *A. B.* do by these Presents for me, my Executors and Administrators, covenant and grant to and with the said *C. D.* that the said Ship shall with the first fair Wind, after the Day, &c. of this instant, &c. depart from the said River of *Thames*, and shall, as Wind and Weather shall serve, proceed in her Voyage to, &c. in the *West-Indies*, and having there tarry'd until, &c. and having the Opportunity of a Convoy, or being sooner dispatch'd (which shall first happen) shall return from thence, and as Wind and Weather shall serve, directly sail back to the River of *Thames* to finish and end her said Voyage. And I the said *A. B.* in Consideration of the said Sum of 100 *l.* to me in Hand paid by the said *C. D.* at and before the Sealing and Delivery of these Presents, do hereby bind my self, my Heirs, Executors and Administrators, my Good
and

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and Chattels, and particularly the said Ship, with the Freight, Tackle, and Apparel of the same, to pay unto the said C. D. his Executors, Administrators or Assigns, the Sum of 120*l.* of lawful *British* Money, within one and twenty Days next after the Return and safe Arrival of the said Ship in the said River of *Thames* from the said intended Voyage. And I the said A. B. do also for me, my Executors and Administrators, covenant and grant to and with the said C. D. his Executors and Administrators by these Presents, that I the said A. B. at the Time of the Sealing and Delivery of these Presents, am true and lawful Owner and Master of the said Ship, and have Power and Authority to charge and ingage the said Ship as aforesaid: And that the said Ship shall at all Times after the said Voyage, be liable and chargeable for the Payment of the said One hundred and twenty Pounds, according to the true Intent and Meaning of these Presents. And lastly, it is hereby declar'd and agreed by and between the said Parties to these Presents, that in Case the said Ship shall be lost, miscarry, or be cast away before her next Arrival in the said River of *Thames* from the said intended Voyage, That then the said Payment of the said 120*l.* shall not be demanded or be recoverable by the said C. D. his Executors, &c. but shall cease and determine, and the Loss thereof be wholly born and sustain'd by the said C. D. his Executors and Administrators. And that then and from thenceforth every Act, Matter, and Thing herein contain'd on the Part and Behalf of the said A. B. shall be void; any Thing herein contain'd to the contrary notwithstanding. *In Witness, &c.*

To this Precedent might be added, as a further Security, a short Bargain and Sale of the Ship, &c. with a Proviso to be void on Payment of the Money, and Performance of the Covenants.

Condi-

Condition of a Bond upon a Bill of Bottomry.

THE Condition of this Obligation is such, that if the above-bound *A. B.* his Heirs, Executors, and Administrators, do and shall well and truly pay, or cause to be paid unto the above-named *C. D.* his Executors, Administrators, or Assigns, the full Sum of 120 *l.* of lawful *British* Money, at, or before the End of One and twenty Days next after the first Return, and safe Arrival of the Ship, &c. (Burthen, &c. the said *A. B.* Master) from her present intended Voyage to, &c. in the River of *Thames*. And also shall, and do, well and truly observe, perform, fulfil, and keep all and every the Covenants, Grants, Articles, and Agreements, which on his or their Parts and Behalves are or ought to be observed, performed, fulfilled, and kept, mention'd, and contain'd, in a certain Writing or Bill of Bottomry of the Date above-written, made by and from the said *A. B.* Part-owner of the said Ship, unto the said *C. D.* in all Things according to the true Intent and Meaning of the said Bill of Bottomry or Adventure, that then, &c.

A Bill of Adventure, made by a Merchant on Receipt of Merchandizes.

TO all People, &c. I *A. B.* of, &c. Merchant, send Greeting. Whereas I the said *A. B.* did, on or about the Day, &c. last past, consign to *C. D.* of, &c. in *France*, four Bales of Superfine Broad Cloth, number'd, &c. which Bales were all shipp'd on Board the Ship, &c. of the Burthen, &c. or thereabouts, *E. F.* Master, bound for, &c. in *France*, for and on Account of me the said *A. B.*

Now

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Now know ye, that I the said *A. B.* do hereby confess and declare, that two of the said Bales of Cloth, viz. that which is mark'd, *£c.* and that which is mark'd, *£c.* do of Right belong to *L. M.* of, *£c.* the Adventure whereof the said *L. M.* is contented to bear out and home. And I the said *A. B.* do by these Presents for me, my Executors, and Administrators, covenant and grant to and with the said *L. M.* his Executors, Administrators, and Assigns, to make and give to him and them a true and just Account of the Sale and Proceed of the said two Bales of Cloth, mark'd, *£c.* within twenty Days next after the Arrival of the said Ship within the Port of *London* from the said Voyage: And also to pay and deliver to him or them all such Money, Goods, and Benefit, as by the Foot of any such Account shall appear to be due and coming unto him the said *L. M.* his, *£c.* for or in Respect of the said two Bales of Cloth. In Witness, &c.

An Assignment of an Adventure and Stock in a Company of Trade.

K NOW all Men by these Presents, That I *A. B.* of, *£c.* for and in Consideration of the Sum of, *£c.* to me in Hand paid by *C. D.* of, *£c.* Have assign'd, transferr'd, and set over, and by these Presents do assign, *£c.* unto the said *C. D.* his Executors and Assigns, all that my Adventure, Part, or Share in the Stock of the Governour and Company of Merchants of *London* trading to the *East-Indies*, being to the Value of, *£c.* and every Part thereof, and all Benefit, Proceed, and Profits thereof, which now are, or at any Time hereafter shall become due or payable for the same; And all my Estate, Right, Title, Interest, Claim, and Demand whatsoever, of, in, or to the same, or
I any

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any Part thereof: *To have and to hold* the said Adventure or Stock, and every Part thereof unto the said *C. D.* his Executors, Administrators, and Assigns, to his and their own proper Use and Behoof for ever. *And* I the said *A. B.* for my self, my Executors, Administrators, and Assigns, do covenant and grant to and with the said *C. D.* his Executors, Administrators, and Assigns, that he the said *C. D.* his Executors, Administrators, and Assigns, shall and may from Time to Time, and at all Times hereafter, lawfully, peaceably, and quietly have, hold, receive, take, and enjoy to his and their own proper Use and Behoof the said Adventure and Stock of, &c. and all and every the Proceed and Profits thereof, and of every Part thereof, without any Let, Trouble, Molestation, or Interruption of or by me the said *A. B.* my Executors, Administrators, or Assigns, or of any other Person or Persons whatsoever, lawfully claiming from, by, or under us, or any of us, or by any or either of our Acts, Means, or Procurement. *In Witness, &c.*

A Bill of Sale of Part of a Ship.

TO all People to whom these Presents shall come, I *A. B.* of, &c. Merchant, send Greeting. *Know ye,* That I the said *A. B.* for and in Consideration of the Sum of 150 *l.* of, &c. to me in Hand paid by *C. D.* of, &c. the Receipt whereof I do hereby acknowledge, *Have* granted, bargain'd, and sold, and by these Presents do grant, bargain and sell unto the said *C. D.* one full eighth Part of the Ship call'd, &c. of the Burthen of Two hundred Tuns, or thereabouts; and whereof one *E. F.* is at present Master, now riding at Anchor on the River of *Tbames* within the Port of *London*, together with one full eighth Part of all the Masts, Sails, Sail-

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Sail-yards, Anchors, Cables, Ropes, Cords, Boats, Oars, Pieces of Ordnance, Guns, Gun-Powder, Shot, Tackle, Apparel, Ammunition, and Furniture to the said Ship belonging or appertaining: *To have and to hold* the said eighth Part of the said Ship, and all other the Premisses hereby granted, bargain'd, and sold, with the Appurtenances unto the said *C. D.* his Executors, Administrators, and Assigns, as his and their own proper Goods, and to his and their own proper Use and Uses for ever. *And* I the said *A. B.* do for my self, my Heirs, Executors, and Administrators, covenant and grant to and with the said *C. D.* his Executors and Assigns, that I the said *A. B.* at the Time of the Sealing and Delivery of these Presents, am the true and lawful Owner and Proprietor of the said eighth Part of the said Ship and Premisses hereby granted with the Appurtenances, and have full Power and lawful Authority to grant and convey the said eighth Part of the said Ship and Premisses hereby mention'd to be granted, with the Appurtenances, unto the said *C. D.* his Executors, Administrators, and Assigns, in Manner and Form aforesaid. *And* that it shall and may be lawful to and for the said *C. D.* his Executors, Administrators, and Assigns, from Time to Time, and at all Times hereafter, peaceably and quietly to have, hold and enjoy, the said eighth Part of the said Ship, and all other the Premisses hereby granted, with the Appurtenances, without any Disturbance, Molestation, or Interruption of me the said *A. B.* my Executors, Administrators, or Assigns, or of any other Person or Persons whatsoever, lawfully claiming, or to claim from, by, or under me, them, or any of us. *In Witness, &c.*

If you make a common Mortgage of a Ship, (which is seldom done by Reason of the Casualty), you are to make Use only of the Words *bargain and sell*;

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sell; add in the Covenant—for peaceable Enjoyment, (after Breach of the Proviso, or Condition aforesaid) and add the following Proviso next to the *Habendum*.

Proviso in a Mortgage of a Ship.

P*rovided* always, and upon Condition, that if I the said *A. B.* my Executors, &c. shall well and truly pay, or cause to be paid unto the said *C. D.* his Executors, Administrators, or Assigns, the Sum of, &c. at and upon, &c. next ensuing, according to the true Intent and Meaning of these Presents, that then this present Bargain and Sale of the said Ship and Premises, and every Thing herein contain'd, shall cease, determine, and be void to all Intents and Purposes; any Thing herein contain'd to the contrary thereof in any wise notwithstanding.

A Covenant to insure a Ship mortgag'd.

A*ND* the said *A. B.* for himself, his Executors and Administrators, doth covenant and grant to and with the said *C. D.* his Executors, &c. that he the said *A. B.* shall and will, at his and their own proper Costs and Charges, according to the Custom of Merchants, in the Name of the said *C. D.* insure the said Ship and Premises for and during such Voyage, or Voyages, which she shall make, and against all Accidents which may otherwise happen to the said Ship, until the said *C. D.* his Executors, &c. shall be paid by the said *A. B.* his Executors, &c. the said Sum of, &c. *In Witness, &c.*

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A Condition to make Satisfaction, if any Mistake shall happen to be found in an Account made up by Merchants.

Whereas upon the Dissolution of the Partnership between the above-bound *A. B.* and the above-named *C. D.* in the Trade or Business of, &c. a general Account hath been given in by the said *A. B.* who was the sole Actor and Manager in the said Partnership, unto the said *C. D.* of all the Money receiv'd to and paid by the said *A. B.* from, &c. last past (the Time of settling the last Accounts) to the Day of the Date hereof; and by Reason of the great Length of the said Accounts, the said *C. D.* hath not had Time to duly examine them, but hath allow'd the said *A. B.* the Ballance at the Foot of the Accounts. Now the Condition of this Obligation is such, That if the said *A. B.* his Executors, Administrators, or Assigns, do and shall well and truly satisfy and pay, or cause to be paid, unto the said *C. D.* his Executors, Administrators, and Assigns, all such Sums of Money (if any) which on a more strict Examination of the said Accounts, shall appear not to be rightly accounted, and his Part or Share of such other Sums of Money as shall be found not to have been accounted for; then, &c. or else, &c.

An Award between two Merchants relating to Shipping, and other Accounts of Consequence between them.

TO all to whom this present Writing indented of Award shall come Greeting, &c. Whereas there are several Accounts depending, and divers Differences, Controversies, and Disputes, have lately

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ly arisen between *A. B.* of, &c. Widow and Executrix of *N. B.* late of, &c. and *C. D.* of, &c. Mariner, all which Controversies and Disputes are chiefly touching and concerning a Voyage perform'd by the said *C. D.* for the said *N. B.* in the Ship call'd, &c. (whereof the said *C. D.* was Master) in Partnership between them; and also, &c. and divers other Matters and Things thereabout, or otherwise relating thereunto. *And whereas*, for the Putting an End to the said Differences, they the said *A. B.* and *C. D.* by their several Bonds or Obligations, bearing Date, &c. last past, are reciprocally become bound each to the other of them, in the penal Sum of 1000*l.* to stand to and abide the Award and final Determination of us, *E. F. G. H. J. K.* and *L. M.* &c. all of, &c. or any three of us, so as the said Award be made in Writing, and ready to be deliver'd to the Parties in Difference on or before, &c. next, as by the said Obligations and Conditions thereof may appear. *Now know ye*, That we the said Arbitrators, whose Names are hereunto written, and Seals affix'd, taking upon us the Burthen of the said Award, and having fully examin'd and duly consider'd the Proofs and Allegations of both the said Parties, do, for the Settling Amity and Friendship between them, make and publish this our Award between the said Parties, in Manner following, (that is to say) *Imprimis*, We do award and order, that all Actions, Suits, Quarrels, and Controversies whatsoever, had, mov'd, arisen, or depending between the said Parties in Law or Equity, for any Manner of Cause whatsoever, touching the said Premisses, from the Beginning of the World until the Day of the Date of the said Bonds or Obligations, shall cease, and be no farther prosecuted: And that each of the said Parties shall pay and bear his and her own Costs and Charges in any wise relating to or concerning the same Premisses. *And we do also award*
and

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and order that the said *A. B.* and *C. D.* shall on, *&c.* next coming, between the Hours of, *&c.* in due Form seal and execute to, or to the Use of *N. R.* of, *&c.* one or more legal Power or Powers, sufficient for the Enabling the said *N. R.* to ask, demand, sue for, recover, and receive of and from the said, *&c.* the Sum of, *&c.* and upon Receipt thereof to give Acquittances or Discharges for the same in their or one of their Name or Names, as he shall be advis'd, or think fit, as a Satisfaction to him for the Debt of, *&c.* due from the said Ship, *&c.* and that all Costs and Charges as shall accrue in or about the Recovering of the said, *&c.* shall be paid, born, and discharg'd by the said Parties proportionably. *And whereas* there is the Sum of, *&c.* affirm'd to be paid by the said *A. B.* for and towards Wages due on the said Voyage, the Particulars whereof are hereon indors'd; we do further award and order, That the said *A. B.* shall, at the Time above-mentioned, enter into, seal, and execute to the said *C. D.* a sufficient Instrument or Security to make good and satisfy all and every the Sum or Sums of Money in the said Indorsement mention'd to be paid by her, and to save harmless and indemnify the said *C. D.* his Executors and Administrators of and from the same, and every Part thereof. *And* we do also award and order, that the said *A. B.* shall pay, *&c.* and the said *C. D.* shall pay, *&c.* *And lastly*, we do award and order, that the said *A. B.* and *C. D.* shall at, *&c.* aforesaid, in due Form of Law, execute each to the other of them, or to the other's Use, general Releases sufficient in the Law for the Releasing by each to the other of them, his, and her Executors and Administrators, of all Actions, Suits, Quarrels, Controversies, and Demands whatsoever, touching or concerning the Premises aforesaid, or any Matter or Thing thereunto relating, from the Beginning of the World until the Day of, *&c.* last,

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(the Date of the Bonds of Arbitration) the several Sums of Money hereon indors'd only excepted. *In Witnesses, &c.*

A Letter of Licence to a Debtor.

TO all People, &c. We, whose Names are here under subscrib'd, and Seals affix'd, Creditors of *A. B.* of, &c. Merchant, send Greeting. *Whereas* the said *A. B.* on the Day of the Date of these Presents, is indebted unto us in divers considerable Sums of Money, which by Reason of great Losses happen'd unto him, he is not at present able to satisfy without Respite and Time to be given unto him for the Payment thereof. *Know ye therefore,* That we the said Creditors do, by these Presents, give and grant unto the said *A. B.* our sure and safe Conduct and free License, that he the said *A. B.* shall and may safely come and go, and resort unto us, and every one of us his said Creditors, to compound and take Order with us and every one of us, for all and every of our said Debts and to go about any other Business to any other Person or Persons whatsoever, without any Suit, Arrest, Attachment, Trouble, or Molestation, to be offer'd or done unto him the said *A. B.* his Wares, Goods, Monies, or other Merchandizes whatsoever, by us, or any of us, or by the Heirs, Executors, Administrators, Partners, or Assigns of us, or any of us, or by our, or any of our Means and Procurement, from the Day of the Date hereof, unto the full End and Term of one whole Year next ensuing. *And* we the said Creditors, whose Names are here under-written, do hereby covenant and grant, and every one of us for his own Part, his Executors and Administrators, covenanteth and granteth to and with the said *A. B.* That if any Trouble, Damage, or Injury, shall be done unto him

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him the said *A. B.* either in his Body, Goods, or Chattels, or any of them, within the said Term of one Year next coming after the Date hereof, by us, or any of us his said Creditors, or by any other Person or Persons, by or through the Procurement, Consent, or Knowledge of us, or any of us, contrary to the true Intent and Meaning of this our present Writing of safe Conduct, that then the said *A. B.* by Virtue of these Presents, shall be discharg'd and acquitted for ever, towards and against him and them, of us, his, and their Heirs, Executors, Administrators, Partners, or Assigns, and every of them, by whom, and by whose Means, he shall be arrested, troubled, and attach'd or damnify'd, of all Manner of Actions, Suits, Quarrels, Debts, and Demands, either in Law or Equity, from the Beginning of the World, to the Day of the Date hereof. *In Witness, &c.*

A short Letter of Licence to, and Composition with a Merchant abroad.

TO all, &c. We whose Names are here under subscrib'd, &c. send Greeting. *Whereas* the said *A. B.* now Resident for the Benefit of Merchandize beyond the Seas, is indebted unto us his said Creditors in several Sums of Money, and, is through Misfortunes, perfectly unable to pay and satisfy us our whole Debts. *We do therefore* hereby declare, That every one of us who shall subscribe and seal these Presents, shall and will, and hereby do give free Leave and Licence for the said *A. B.* together with his Goods, to go, come, and abide amongst us, for the Term of six Months, to be computed from the Date hereof, without our, or any of our Let, Trouble, Suit, Arrest, or other Disturbance whatsoever. *And further, That if the*

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said

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said *A. B.* his Executors, Administrators, or Assigns, shall, within the Space of six Months aforesaid, pay, or cause to be paid unto us, for and in Respect of the several Debts owing unto us, ten Shillings in the Pound; that then we the said Creditors, and every one of us, shall and will accept the same in full of the Debt and Debts to us severally owing, and shall and will give unto him or them general Acquittances and Releases from us, and every of us. *In Witness, &c.*

C H A P. II.

Of Masters of Ships, their Acts, Privileges, and Advantages, how far they are bound, and the Extent of their Power; Of Mariners, their several Offices, Duties, and Obligations; Pilots, &c. With proper Precedents relating to them.

THE Master of a Ship is establish'd in his Office by the Owners, who are oblig'd to make good his Actions; and as the whole Care of the Ship and Goods is committed to the Master, so the Owners ought to be prudent in their Election: The Master hath a Power to freight out the Vessel, take in Goods and Passengers, mend and furnish the Ship; and for that Purpose (if it be necessary) he may, in a foreign Country, borrow and take up Money upon some Part of the Tackle, or sell some of the Merchandize. *Leg. Oleron. l. 1.* And our Common Law hath held this reasonable. *Lex Mercat. 102.*

If Merchants freight a Vessel at their own Charges, and set her to Sea, and she happens afterwards

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wards to be Weather-bound, the Master may impawn at his Pleasure, either the Ship or her Lading, or at least that which he can most conveniently raise Money on: For here is a Necessity, for the Compleating of the Voyage, which may be otherwise intirely lost. And in Case he has great Difficulty in pawning the Lading, he may sell as much thereof as is necessary.

But some Authors mention, that a Master, by the Common Law, may not sell or dispose of the same, without an Authority or Licence from the Owners; and when he does pawn the Vessel or Furniture, he ought to advise with and have the Consent of his Mariners. *1 Sider. 453. 1 Rob. Abridg. 530.*

A Master for any Debt of his own, cannot impawn the Ship; but where the Ship is well engag'd, she is for ever oblig'd, and the Owners are thereby concluded till Redemption.

If Misfortunes happen to a Ship, either through the Negligence, Wilfullness, or Ignorance of the Master, or his Mariners, the Master must answer the same. *Hob. Rep. fol. 11.* But the Master shall not be answerable for the Contracts of his Mariners; for in such Case they may be detain'd. And in Case of a Charge against a Master, it must be set forth what occasion'd the Accident; and that such a Misfortune could not have happen'd, without such a Fault precedent.

When Goods or Merchandizes are put on board the Ship, and enter'd, whether she be riding in any Port, or in any Part of the Sea, the Master is chargeable with the same; and if it be there lost, or receive any Damage, by any Means whatsoever, (except the Act of God, or an Enemy, and Dangers of the Sea) the Master is oblig'd to answer it; for the Lading of the Goods on Board makes the Master liable: And he is in the Nature of a common Carrier. *H. Naut. Caup. Stab. Leg 1. Sect. 2, 3, 6, 7.*

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Morsel versus *Slue*. *Hill*. 23 *Car*. 2. If a Merchant-Man is robb'd by a Pirate in a Port or Haven, the Master is responsible; but if the Robbery be committed by an Enemy, the Master is excus'd. 2 *Keb*. 866. And if a Master receive Goods at the Wharf or Key, or shall send his Boat for or with the same, and they happen to be lost, he is liable to answer, both by the Law Marine, and the Common Law.

A Master of a Ship must not over-lade his Ship above the Birth-Mark; or take into his Ship any obscure Person, without Letters of safe Conduct. And he ought not to lade any of his Merchant's Goods on Board the Ship of any Enemy (though his own Ship be in Distress) without Letters of safe Conduct; for if he does, the same may be made Prize, and he must make good the Damage. *Stat*. 18 *H*. 6. *cap*. 8. and he must not lade any prohibited Goods, whereby the Cargo may be subject to a Seizure. 19 *El*. c. 9. 12 *Car*. 2. c. 18. nor ought he to ship any Merchandizes, but only at the publick Ports and Keys. 15 *H*. 6. c. 8.

He shall not sneak into the Creeks, or other Places, when laden Homewards, but steer his Course to the great Ports, (except he be forc'd in by Tempest) for in such Cases he would incur a Forfeiture of his Merchandize, and is oblig'd to answer. 4 *H*. 4. And he may not make Use of any unlawful Colours, Ensigns, Pendants, Jacks, or Flags, whereby his Ship or Lading would be liable to a Seizure. *Stat*. 26 *Car*. 2.

A Master of a Ship is not to set Sail without Mariners that are able, and a sufficient Number of them. He must not set Sail in tempestuous Weather, nor put forth to Sea without first consulting his Company; neither may he stay in Port when he has a fair Wind, without just Cause. And he must not proceed in his Voyage with insufficient Rigging or Tackle. And if the Ropes break in Delivery

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livery of Goods into Lighters, the Master must answer, unless the Lighter comes to the Wharf or Key, when the Wharfinger is liable. *Leg. Oleron, Judg. 2.*

If a Commander of a Ship shall break Ground or endeavour to sail away, after an Embargo is laid upon Shipping by the State, he shall be answerable for all Damage which shall accrue. The Reason is, because his Freight is due, and must be paid, though his Goods be seised. *Digest. lib. 9. tit. 2. Leg. 61.* He must not refuse Payment of the just and ordinary Duties and Port-Charges, to the Hazard of any of his Lading; but if the Officers insist upon more than is due, and he offers what is just, and which he ought to pay, then he shall be excused.

A Master may not alter his Course without good Cause, or steer his Passage a dangerous and unusual Way, when it may be avoided; nor may he sail by Places infested with Pirates, Enemies, &c. or near Rocks, or Sands, (if he be not necessitated by tempestuous Weather, or deluded by false Lights, &c.) which the Law takes Notice of as Faults in him.

After his Arrival in Port, his first Business is to see that the Ship be well moor'd and anchor'd; and then he is not to sail again until he hath been legally clear'd: For in such Case, if any Damage happens, by Reason of any Fault or Negligence in him or his Men, whereby the Merchant or the Lading suffer Damage, he is obliged to answer the same. *18 Eliz. c. 9. 14 Car. 2. c. 11.*

No Master of a Ship shall lade on Board any Goods outwards to any Place whatsoever, without entring at the Custom-House the Name of the Ship and of her Master, the Burden, Guns, Ammunition, and to what Place bound; and, before Departure, he shall bring in a Note under his Hand of the Names of every Merchant that shall have

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laid aboard any Goods, with the Marks and Numbers of such Goods, and be sworn to the same, on Pain of 100*l.* 14 *Car. 2. c. 11.*

Goods landed, for which Duties are to be paid, without Entry made, and the Customs agreed, are liable to Seizure; and a Door may be broke open for that Purpose. And a Carman, or other Person, assisting in taking, landing, shipping, or carrying away Goods, without a Warrant, or the Officer of the Customs being present, forfeits 5*l.* the second Offence. If any Person shall resist, hinder, or abuse any Officer of the Customs in the Execution of his Office, he may be committed, and fined 100*l.* by Justices of Peace at the next Sessions. Also if any Officer of the Customs take any Bribe, or connive at any false Entry, he shall forfeit 100*l.* and be incapable of any Employment; and the Person giving such Bribe, shall forfeit 50*l.* And Persons counterfeiting, razing, or falsifying any Certificate, Return, or Custom-House Warrant, shall forfeit 100*l.* Stat. 12 *Car. 2. c. 14.*

The Growth of his Majesty's Plantations may not be imported into *England, Ireland, or Wales, Jersey, or Guernsey*, but in such Vessels as belong to Owners that are of *England*, or of those Places, and three Fourths, at least, of the Mariners *English*, upon Forfeiture of Ship and Goods: And the Goods must be brought directly from those very Countries where produced, (for which the Master is to give Security) under the like Penalties.

And a Master of a Ship may not import into, or export out of any of the *English* Plantations in *Asia, Africa, or America, &c.* but in *English* or *Irish* Vessels, or of the Vessels built and belonging to those Countries, and the Master and three Fourths of the Mariners being *English*, upon Forfeiture of Ship and Goods; and they may be seized by the King's Officers as Prize. 12 *Car. 2.*

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The People of *England* may import (the Master and Mariners three Fourths *English*) any Goods or Wares from *Spain*, *Portugal*, the *Azores*, *Madera* or *Canary* Islands. (And in Ships that are not *English*-built, Bullion may be imported; so it may likewise in Ships taken by Way of Prize). And although the Produce of the Plantations must be brought directly from the Places of their Growth, without being carried to any other Place, Masters of Ships may take in Goods in the *Levant* or *Streights*, that are not of the Growth of the Country, the Ships in which they are imported being *English* Ships, and having three Fourths *English* Mariners. 12 Car. 2. c. 18. But from the *Netherlands* or *Germany*, there may not be imported any Sort of Wines but *Rhenish*, or any Kind of Wares, other then Spicery, Grocery, Tobacco, Pot-Ashes, Pitch, Tar, Salt, Rozin, Deal-boards, hard Timber, Oil, or Olives, in any Ship whatsoever.

No Ship shall be permitted to sail from Port to Port in *England*, *Ireland*, *Wales*, &c. not belonging to People of those Places, unless the Owners are Denizens, or naturaliz'd, and the Master and Mariners three Fourths *English*. And if a Master of a Ship shall have Freight from Port to Port within the Realm, he ought to have a Warrant for the same, on Pain of Forfeiture of the Goods; and he is to take forth a Cocquet, and become bound to go to the Port design'd for, and to return a Certificate from the Chief Officers of that Port, and be discharg'd within six Months.

Foreign-built Ships brought into the Kingdom, and employed in merchandise from Port to Port, are to pay an extraordinary Duty of 5 s. per Tun, and Colliers 12 d. per Tun, beyond what is paid by *English*-built Ships. One Moiety whereof to the Chest at *Chatbam*, and the other to the Master, Warden, and Assistants of Trinity House, *Deptford Strond*,

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Strond, towards the Relief of wounded and decayed Seamen, &c. 1 *Jac.* 2. c. 18.

And for encouraging the Building of stout defensible Ships, during the last War, Ships built of three Decks, containing 450 Tuns, and mounted with thirty-two Pieces or Ordnance, for the three first Voyages the Merchants, &c. were to receive a tenth Part of Tonnage and Poundage Duties payable for Merchandises exported or imported on the said Ships. Stat. 5 & 6 *W. & M.* c. 24.

Masters of Ships shall not be above three Days coming from *Gravesend* up the River; nor are they to touch at any Key or Wharf, till they come to *Chester's* Key, unless hinder'd by contrary Winds, or by any Accident to the Ship. And they, or their Purfers, are there to make Oath of the Burden, Contents, and Lading of their Ships, to the best of their Knowledge; also where they took in their Lading; in what Country the Ship is built, and how mann'd; who was Master during the Voyage, and who the Owners; and in Out-Ports must come up to the Place of unlading, as the Condition of the Port requires, and make Entries, on Pain of 100*l.*

And no Captain, Master, or Purser of any of his Majesty's Ships of War, shall unlade any Goods before Entry made, on Pain of 100*l.* 12 *Car.* 2. c. 18.

I shall close my first Head of this Chapter with the following Law Cases.

If a Minor, being Master of a Ship, by Contract with another, undertakes to bring Goods from Places abroad to *England*, and there to make Delivery of them, and delivers them not according to Agreement, but wastes and consumes them, he may be prosecuted in the Court of the Admiralty, although he be an Infant; for this Suit is but in Nature of a Detinue, or Trover and Conversion at the Common Law; and a Prohibition was deny'd

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ny'd for that Cause. *Furnes against Smith. Roll's Abr. 530.*

Where a Fault is committed by a Master of a Ship, or any other Cause of Action arises in any Port, Haven, River, or Creek, or any other Place, *infra Corpus Comitatus*, the Common Law shall have Jurisdiction, and not the Admiralty: But if the same be committed *super altum mare*, it is within the Jurisdiction of the Admiralty. And if it be on a Place where is *divisum imperium*, then according to the Flux or Re-flux, the Admiralty have a Right to challenge the other by the Common Law. *Dodwel's Case, Coke lib. 6. fol. 47.*

If a Vessel happens to be wreck'd or cast away, and the Mariners, by their great Pains, recover some of the Ruins of the Lading, the Master in that Case may pledge the same, and distribute the Money among his distress'd Mariners, to ease them in their travelling Home to their own Country: But if the Mariners no way contribute to the Salvage, then their Reward is sunk and lost with the Vessel. *Judgment Oleron, c. 3.*

Some late Statutes.

By Statute 10 *Annæ c. 17.* every Seaman and Person employed upon the Coasts of *Great Britain* or *Ireland*, in the taking of Fish which are brought fresh to Shore, and in Boats which trade from Place to Place, or in open Boats upon the Coasts, shall pay 6*d.* per Month for the better Support of *Greenwich* Hospital. And the Master of every Ship or Vessel, not in the Service of the Crown, is to detain the same out of the Mariners Wages, and shall pay it to the Person who shall be appointed by the Admiralty to receive it; and is to give an Account upon Oath, on Pain of 20*l.*

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Proviso, That Masters and Servants of Hoys, Smacks, or other Vessels belonging to *London*, and employed in bringing Corn, Fish, or other Provisions, shall not be liable to this Duty.

If any Master of a Merchant Ship or Vessel, shall, during his being on Board, force any Man ashore, or wilfully leave him behind, or refuse to bring all his Men home again, who are in a Condition to return, he shall suffer three Months Imprisonment. 11 & 12 W. 3. c. 7. And Seamen deserting their Service, to forfeit their Wages.

Poor Boys, Ten Years old, whose Parents are chargeable to the Parish, may, with the Consent of two Justices, &c. be put Apprentices to the Sea-Service till Twenty-one Years of Age; and the Overseers, &c. shall pay the Master when the Boy is bound, 2*l.* 10*s.* for Cloathing and Bedding, and be allow'd it in their Accounts. A Master of a Ship from 30 to 50 Tuns, refusing one such Apprentice, shall forfeit 10*l.* And poor Boys bound to other Employments, may be turn'd over to a Master of a Ship. Stat. 2 *Annæ*.

If a Master of a Ship shall bring into this Realm, from *Ireland*, *Fersey*, *Guernsey*, or any of the Plantations abroad, any Rogue or Beggar, he shall forfeit 5*l.* And Masters of Ships bound for *Ireland*, &c. shall, upon a Warrant to them directed by a Justice of Peace, transport Vagrants at the Rates set at the Quarter-Sessions, under the like Penalty. Stat. 12 *Annæ* c. 23.

Of Mariners.

As I have before observ'd, that Owners of Ships are oblig'd to make good the Actions of their Master, so the Master is oblig'd, in many Respects, to make good the Actions of his Men. For the Mariners are accountable to the Master, the Master to the Owners, and Owners to the Merchant or Freighter, for all Damages by Negligence or otherwise.

A Master of a Ship hath the supreme Rule on Ship-board; and if a Mariner commits a Fault, and the Master lifts up the Towel three Times before him, and he do not submit, the Master at the next Place of Land, may discharge him: If he refuses to go ashore, he shall lose his Wages, and all his Goods in the Ship; but if the Mariner submits, he shall receive his whole Wages. And a Master of a Ship may justify the Giving moderate and due Correction to his Men. But if a Mariner shall assault the Master on Ship-board, he is to pay 5 *Sols*, or lose his Hand. *Leg. Oleron. c. 14. Pasch. 27 Car. in B. R. Pidgeon against Argoe.*

Mariners are not to depart from on Ship-board when they are in full Pay, (which is always when they break Ground) without Licence obtained of the Master for so doing; and they may in no Case quit the Ship without leaving a sufficient Number to guard her. And they must assist one another, both at Sea and in Port, or shall lose their Wages.

If a Mariner be hir'd, and he deserts the Service before the Voyage ended, by the Law Marine and the Common Law, he shall lose his Wages. *Leg. Oleron.* And in an Action for Mariners Wages, it was determin'd, that if the Ship do not return, but perishes, either by Tempest, Enemies, Fire,

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Fire, &c. the Mariners shall lose their Wages; by Reason if they were allowed their Wages in these Cases, their best Endeavours would be wanting to preserve the Ship; and the Mariners shall lose their Wages, as well as the Owners their Freight. 1 *Sid.* 179. Though if the Ship unlade any Part of her Cargo, the Mariners shall have their Wages. *Cullen and Mico.* 1 *Keeble* 830.

But if after they have unladen the Vessel, they demand their Wages, with an Intention of leaving the Ship, the Master (as his Security) may detain a reasonable Proportion of the same, till they have brought back the Ship. *Leg. Oleron. c. 18.*

If a Mariner takes up Money or buys Clothes on Credit, and the same is enter'd in the Purser's Book, this Entry will intitle a Discount of so much of his Wages as the same amounts to; and it shall be allow'd in any Action brought for Wages. For when a Mariner is on Ship-board, he may not be arrested for Debt; but only so much of his Wages in the Hands of the Master shall be attach'd. And *query* this, If it be not a Judgment or Penalty to the King.

Goods deliver'd to a Master are not liable to Attachment in his Hands; for they are in Law, a Security to the Ship, until the Freight and all other Charges are defray'd: And 'tis question'd, whether an Attachment can be made in *London* of any Goods on Ship-board in the River of *Thames*. Lord Chief Justice *Hale.* *Mich. 27 Car. 2.*

If a Ship happens to be seised for Debt, or otherwise become forfeit, not through any Act of the Mariners, they shall receive their Wages. So that if the Ship be laden with prohibited Goods, as Wool, and the like, though it subjects the Vessel to a Forfeiture, yet it deprives not the Mariners of their Hire; for they having faithfully perform'd their Parts, the Ship is tacitly oblig'd for their Wages. This is a marine Custom, and is allow'd

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by the Common and Civil Laws. *Trin. 7 Jac. B. R. Roll's Abr. fol. 530.*

And though by the Common Law they cannot join in an Action for their Wages, yet in the Admiralty they may all join; and the Courts at *Westminster* will not grant a Prohibition. *Jones's Case, 1 Vent. 146. 2 Keeble 779.*

Masters of Ships ought carefully to inspect their Boats, to see that they are in a fit Condition for their Men to hazard their Lives in, for if it happens that the Master commands his Boat to be mann'd out, when the same is unfit to take the Sea, and a Mariner is drown'd, the Master is to pay one whole Year's Wages to the Heirs of the Deceas'd, by the Law Marine.

If Mariners get drunk, and wound one another, they are not to be cur'd at the Charge of the Master of the Ship, by Reason the Accident was not receiv'd in the Service of the Ship. But if it be in the Service of the Ship, the Wounded is to be provided for at the Charge of the Ship; and in Case his Illness be so violent that he is incapable of travelling, he is to be left ashore with necessary Accommodations, and the Ship is not to stay for him; if he recovers, he is intitled to his full Wages, deducting what the Master expended for him. *Leg. Oleron. c. 7.* And if a Mariner receive a Bruise or other Damage in doing his Duty, by the Miscarriage of another, the Master may stop the Damage out of the Wages of the Offender.

The Law imputes Offences committed by Mariners, to be Negligences in the Master, (otherwise the Merchant would be in a bad Condition) for they are of his own choosing, and under his Correction. But if they are faulty, and the Fact is plainly proved against them, the Master may reimburse himself out of their Wages. *Pasch. 11. Jac. in B. R. Hern ver. Smith. Roll's Abr. 530.*

And

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And Mariners are sometimes of extraordinary Service to the Master; as in Case of a Storm, if Goods are cast over Board for lightning the Ship, the Mariners making Oath that it was done for the Preservation of the Vessel, shall discharge him. So Goods damnified at Sea, are clear'd by the Oath of the Master and Mariners. *Per Leg. Oleron.*

Mariners may not carry out of the Ship any Drink, nor above one Meal of Meat; and must take Care not to imbezil the Goods; for if Goods are imbezil'd or damnify'd by them, the Owners and Master will deduct the same out of their Freight to the Merchants, and out of the Wages of the Mariners; and the Mariner cannot claim his Wages till the Ship be acquitted from the Damage the Master hath sustain'd.

Although the Lading of Goods or Merchandise makes a Master liable to answer, if they are imbezil'd or damnify'd, even by his own Men; yet, if a Master forewarn a Passenger to keep his Goods, and declares that he will not take the Charge of them, and that if they are lost or purloin'd by his Crew, he will not be oblig'd to see them forthcoming, the Master is not in such Case responsible; but if he delivers the Key of a Cabin to receive the Goods, though he makes such a Declaration, he shall nevertheless make Satisfaction, if a Loss ensues. By the Common Law, the same shall bind an Inn-keeper.

A Merchant brought an Action of Trespafs against a Master of a Ship for an Imbezilment by his Mariners of twenty-two Pieces of Gold and other Things, and adjudged he should answer.
24 Ed. 3. *Pilk's Case.*

Of

Of Pilots.

In a Charterparty of Affreightment, the Master generally covenants to find a Pilot, and the Merchant covenants to pay him. And in Case the Ship shall miscarry coming up the River, through the Insufficiency of the Pilot, the Merchant hath his Election to charge either the Master or the Pilot; and if he charges the Master, then the Master must have his Remedy against the Pilot.

Before the Ship arrives at her Place or Bed, and while she is under the Charge of the Pilot, if she or her Goods perish or be spoil'd, the Pilot must make good the same. But after the Ship is brought to the Hartour, the Pilot is no further liable; for then the Master is to take Care of her Bed, and her lying, and take all the Charge upon himself, and answer for all Dangers, except that of the Act of God. *Leg. Oleron. c. 23.*

By the Laws of *Denmark*, an ignorant Pilot is sentenc'd to pass thrice under the Ship's Keel. And by the Laws of *Oleron*, if the Fault of a Pilot be so notorious that the Ship's Crew see an apparent Wreck, they may then lead him to the Hatches, and strike off his Head: But the Common Law denies this hasty Execution.

By the Laws of *France*, no Person shall be receiv'd as Pilot, till he has made several Voyages, and pass'd a strict Examination. After that, on his Return in long Voyages, he is to lodge a Copy of his Journal in the Admiralty, on Pain of fifty Livres. And if a Pilot by Ignorance or Negligence, occasion the Loss of a Ship, he shall pay one hundred Livres Fine, and be for ever depriv'd of the Exercise of Pilotage; and if he does it designedly, he shall be punish'd with Death.

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No Masters of Ships shall oblige Pilots to pass through dangerous Places, or to steer Courses against their Wills; but if there be Difference in Opinions, the Master shall, in such Case, be govern'd by the Advice of the most expert Mariners.

By Stat. 3 *Geo.* Persons taking upon themselves to conduct or pilot any Ship or Vessel from *Dover*, *Deal*, or the Isle of *Thanet*, to any Place in or upon the Rivers of *Thames* and *Medway*, are to be first examin'd by the Masters and Wardens of the Society of Pilots of *Trinity-House*, or they shall forfeit for the first Offence 10*l.* for the second 20*l.* and for every other Offence 40*l.* one Moiety to the Informer, and the other Moiety to the said Master and Wardens.

Proviso, That any Master or Mate of a Ship, or Part-Owner of a Vessel, lying at *Dover*, *Deal*, or the Isle of *Thanet*, may conduct and pilot his own Vessel up the said Rivers.

And if any Ship or Vessel shall be lost through the Negligence or Carelessness of any Pilot, such Pilot shall be for ever after incapacitated to act as a Pilot.

By Stat. 7 *Geo. c.* 21. The Lord Warden of the Cinque Ports, &c. may make Rules for Government of Pilots at *Dover*, *Deal*, &c. and order a sufficient Number to ply at Sea, to conduct Ships up the *Thames*.

Of Lodmanage.

The Pilot receives *Lodmanage* of the Master, for conducting the Ship up the River, or into Port; but the Loadman is he that undertakes to bring a Ship through the Haven, after brought thither by the Pilot, to the Key or Place of Discharge: And if through his Ignorance, Negligence, or other Fault,

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Fault, the Ship or Merchandise receive any Damage, an Action lies against him at the Common Law. *Roughton fol. 27.*

If two Ships, under Sail in the River, both laden, happen to fall foul on each other, there is to be a common Contribution, and equal Division and Appraisment, half by half, (unless one of the Ships is an old rotten Vessel, and lies in the Way on Purpose) but then the Mariners must swear there was no Fault in them: This is by the Law Marine. But at the Common Law there can be no such Determination; for one of them must be found Guilty, and answer the Damage to the other.

Anchors are to lie at a proper Distance from Ships that lie in Harbours; for if, after Request of a Master of a Ship to remove his Anchor farther distant from a Ship near him, he refuses, and any Damage happens thereby, he is to make full Satisfaction. And where a Ship lies at Anchor, without placing a Buoy to the Anchor, and any Damage is sustain'd thereby, the Master shall not only render Satisfaction to the Party damaged, but is subject to be punish'd in the Admiralty. *Leg. Oleron. c. 15.*

P R E C E D E N T S.

A Bill of Lading.

SHipp'd in good Order by *A. B.* Merchant, in and upon the Ship *George*, of the Port of, &c, whereof *C. D.* is Master, now riding at Anchor in the River of *Thames*, and bound for *Calis* in *France*, six Bales of superfine Broad Cloth, &c. mark'd and number'd as in the Margin, and are to

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be deliver'd in the like good Order and Condition, at the Port of *Calis* aforesaid, (the Danger of the Seas excepted) unto *E. F.* Merchant there, or to his Assigns, he or they paying for the said Goods the Sum of, &c. (the Freight) with Primage and Average accustom'd. *In Witness, &c.*

There are always three Bills of Lading made out, one to be sent over Sea to him to whom the Goods are consign'd, another for the Master of the Ship, and a third for the Merchant or Lader.

A Bill of Adventure made by a Master of a Ship, of Money.

TO all People, &c. I *A. B.* of, &c. Master of the good Ship, &c. send Greeting. *Whereas* I the said *A. B.* do intend to make a Voyage unto, &c. in the said Ship, &c. now bound thither. *And whereas* *C. D.* of, &c. the Day of the Date of these Presents, hath paid and deliver'd unto me the Sum of, &c. the Receipt whereof I do hereby acknowledge; the Adventure of which said Sum of, &c. the said *C. D.* hath committed to my Care, and entrusted me with, and is content, and hath agreed to bear and stand to Out and Home. *Now know ye,* That I the said *A. B.* do for me, my Executors and Administrators, covenant and grant to and with the said *C. D.* his Executors, Administrators, and Assigns, by these Presents, that I the said *A. B.* my Executors, Administrators, or Assigns, shall and will dispose, convert, and employ the said, &c. in the said Voyage, in such Goods and Merchandise as shall be most for the Advantage of the said *C. D.* his Executors, Administrators, or Assigns, according to the best of my Skill and Knowledge. *And also,* That I the said *A. B.* my Executors, Administrators,

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nistrators, or Assigns, shall and will in one and twenty Days next after my Return from the said Voyage, or the Arrival and Discharge of the said Ship within the Port of *London*, which shall first happen, not only give, deliver, or cause to be deliver'd unto the said C. D. his Executors, Administrators, or Assigns, a just and true Account of the Disposition and Management of the said Adventure; but also well and truly pay and deliver, or cause to be paid and deliver'd unto the said C. D. his Executors, Administrators, or Assigns, all such Money and Proceed as shall appear to be due and coming to him the said C. D. his Executors, Administrators or Assigns, on Account of the same. *In Witness, &c.*

A Condition of a Bond for the Payment of Money upon an Adventure.

W*Hereas* the above-nam'd *A. B.* hath, at the Request of the above-bouden *C. D.* paid unto him the said *C. D.* the Sum of, *£c.* (or sold and deliver'd unto the said *C. D.* one Gold Watch, *£c.*) and is contented on the Conditions hereafter mention'd, to bear the Hazard and Adventure thereof in the good Ship called, *£c.* whereof the said *C. D.* is Master, now outward bound upon a Voyage for, *£c.* in the Service of, *£c.* Out and Home. *Now the Condition* of this Obligation is such, That if the said *C. D.* his Executors, Administrators or Assigns, or any of them, shall in Consideration of the Premisses, well and truly pay, or cause to be paid, unto the said *A. B.* his Executors, Administrators or Assigns, the full Sum of, *£c.* within twenty Days next after the said Ship shall first and next arrive in the River of *Thames*, from her said Voyage, that then, *£c.* or else, *£c.*

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A Condition from a Master of a Ship, to indemnify the Owners against Breach of Covenants in a Charterparty of Affreightment, and also the Ship from Injury by his Mariners, &c.

THE Condition of this Obligation is such, That if the above-bound *A. B.* his Executors and Administrators, and every of them do, and shall well and truly observe, perform, fulfil, and keep, all and singular the Covenants, Grants, Articles, and Agreements, which on his and their Parts severally or jointly, with the above-nam'd *C. D.* and, &c. their Executors and Administrators, are or ought to be observed, performed, fulfilled, and kept, specified and contained in one Pair of Indentures of Charterparty, bearing Date, &c. made between the said *C. D.* &c. and the said *A. B.* of the one Part, and, &c. on the other Part, whereby the said Ship is letten and hired to freight for a Voyage, with her to be made to and from the *East-Indies*, as therein is exprefs'd. *And also*, If the said *A. B.* his Executors or Administrators, do and shall, from Time to Time, and at all Times hereafter, at his and their own proper Costs and Charges, acquit, discharge, save, and keep harmless and indemnify, as well the said *C. D.* and all the rest of the Part-Owners of the said Ship, and every of them, their and every of their Executors and Administrators; as also the said Ship, Freight, Tackle, Boat, and Apparel, of and belonging to the same, and every Part thereof, of and from all Actions, Suits, Arrests, Claims, Losses, Damages, and Demands, that shall or may be had, incurr'd or sustained, by Reason or Means of any Breach of Covenants, in the said Indenture

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ture of Charterparty, or any of them, to be committed or suffer'd by the said *A. B.* or for, or by Reason or Means of any other Act or Thing whatsoever, to be had, made, done, committed, or suffer'd, by him the said *A. B.* or by the Mariners and Company of the said Ship, or any of them, or by any other Person or Persons, during the said Voyage: *Then, &c.* or else, *&c.*

A Condition to pay a Sum of Money to a Master of a Ship, on the Releasement of a Slave.

W*Hereas* *A. B.* is now a working Servant to, *&c.* in the Island of *Jamaica*, for a certain Term of Years yet to come, or is in Slavery in, *&c.* in *Turkey*. *And whereas* the above-nam'd *E. F.* who is now bound in a Voyage to the said, *&c.* hath agreed with the above-bound *C. D.* to obtain the Freedom and Releasement of the said *A. B.* from his said Slavery, for the Sum of, *&c.* *Now the Condition* of this Obligation is such, that if the above-bound *C. D.* his Executors, or Administrators, do and shall well and truly pay, or cause to be paid, unto the said *E. F.* his Executors, Administrators or Assigns, the full Sum of, *&c.* of lawful *British* Money, within one and twenty Days next after the Releasement of the said *A. B.* and the same is certified by, *&c.* *Then, &c.*

*A Letter of Attorney to a Master of a Ship,
&c. to lease and sell Lands abroad.*

TO all People, &c. *A. B.* of, &c. sendeth Greeting. *Whereas* the said *A. B.* is seiz'd in Fee of a certain Piece or Parcel of Ground, containing by Estimation, &c. situate in, &c. in the *West-Indies*, now or late in the Possession of, &c. *Now know ye*, That the said *A. B.* (being absent from the said Island) doth by these Presents constitute, authorise, and impower *C. D.* of, &c. Mariner, Master of the Ship, &c. now proceeding in a Voyage to the said Island, &c. to lease or demise the said Piece or Parcel of Ground and Premisses, to such Person or Persons, and for such Term or Number of Years, (not exceeding, &c.) and under such yearly and other Rents as he shall think fit; or otherwise to sell and dispose thereof either for Life or Lives, or to sell, grant, or convey the same, in Fee-simple, for such Price or Sum of Money, and to such Person or Persons as he shall think fit. *And* for him the said *A. B.* and in his Name to seal, execute and deliver such Deeds and Conveyances, Bargains and Sales, for the absolute Sale and Disposal thereof, or of any Part thereof, with such Clauses, Covenants, Priviso's, and Agreements therein to be contain'd, as he shall think proper or expedient: Hereby ratifying and confirming all such Leases, Deeds, Bargains, Sales, and other Conveyances which shall at any Time hereafter be made, seal'd, executed, or deliver'd by him touching or concerning the Premisses. *In Witness, &c.*

A Letter

A Letter of Attorney to receive a Seaman's Wages, with a Will annex'd.

KNOW all Men by these Presents, That I *A. B.* of, &c. Mariner, have made, ordain'd, constituted and appointed, and by these Presents do make, ordain, constitute and appoint my loving Wife *E. B.* my true and lawful Attorney for me, and in my Name, and for my Use to ask, demand, and receive of and from all and every Person and Persons whatsoever, as well all such Sum and Sums of Money as now are, or which shall or may at any Time hereafter become due and owing to me, for Wages from any Ship or Ships to whom I now do or may belong; as also all other Monies now due or to become due and owing to me by any other Ways and Means whatsoever. And upon Nonpayment thereof, the said Person and Persons, his, her or their Executors or Administrators, for me and in my Name, to sue arrest, imprison, implead, and prosecute for the same; and upon such Suit to proceed to Judgment and Execution: And thereupon the said Person and Persons, their or either of their Executors and Administrators, in Prison to hold and keep until Payment thereof be made, with all Costs and Damages sustain'd and to be sustain'd by Reason of the Detaining of the same: And upon Payment thereof, the said Person and Persons, their and either of their Executors and Administrators, forth of Prison to discharge; and Acquittances for me and in my Name to make, seal and deliver; and also to do, perform, and execute all and every other lawful and reasonable Acts and Things whatsoever, both for obtaining and discharging the same, as shall be needful to be done: Giving, and, by these Presents, granting unto my said Attorney,
my

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my full and absolute Power in the Premisses, and ratifying and holding firm all and whatsoever my said Attorney shall lawfully do or cause to be done in or about the Premisses, by Virtue of these Presents. *And* I the said *A. B.* considering the Uncertainty of Life, do make and declare these Presents to contain also my Last Will and Testament, (that is to say) *Imprimis*, I give and bequeath unto, &c. *Item*, I give, &c. *Item*, all such Wages, Debts, Sum and Sums of Money, Goods, Chattels, and Estate whatsoever, whereof at the Time of Decease I shall be possess'd or interessed, I do give, devise, and bequeath unto my said loving Wife *E. B.* whom I do hereby nominate, constitute, and appoint sole Executrix of this my Last Will and Testament, Hereby revoking all former Wills, &c. *In Witness*, &c.

C H A P. III.

Of Freight, and Charterparties of Affreightment; Agreements relating to Freight and Covenants in Charterparties, how construd by the Common Law; Of Policies of Insurance, their Nature and how esteem'd of by Law; Of Bills of Exchange, &c. with Precedents of Charterparties of Affreightment, Policies of Insurance, and Assignments of them, &c.

FREIGHT is Money paid for the Carriage of Goods by Sea; and Ships are freighted by the Tun, or by the Great; and, in Respect to Time, the Contracts are either at so much *per* Month, or at a certain Sum for the whole Voyage.

If a Ship, freighted by the Great, happens to be cast away, the Freight vanishes; but if a Merchant agrees either by the Tun, or at so much for every Piece of Commodities, and by any Accident the Ship is cast away, if Part of the Goods is sav'd, some are of Opinion, she ought to be answer'd her Freight *pro rata*. And when a Ship is insur'd, and such a Misfortune happens, the Insured commonly transfer those Goods over to the Assurers, towards a Satisfaction of what they make good, by Virtue of their Subscriptions.

In Case a Ship be freighted for Two hundred Tuns, or any other Number of Tuns, more or less, specifying the Number, and adding, *or thereabouts*, the Addition of *thereabouts* is understood to be within five Tuns, the Moiety of the Number Ten, whereof whole Numbers are compounded.

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A Charterparty is made, reciting the Ship to be of the Burthen of Two hundred Tuns; and the Freight is agreed for at a Sum certain, to be paid at her Return; the Sum agreed is to be paid, altho' the Ship falls short of that Burthen. And if no Burthen is express'd, the Sum is to be paid. But if a Ship, freighted by the Tun, shall be found less than the Burthen mention'd, there shall be no more paid than for the real Tuns.

If a Ship is freighted out and in, there shall be no Freight due 'till the whole Voyage be perform'd; so that if the Ship be cast away coming Home, the Freight outwards as well as inwards are both lost.

Leg. Oleron. Brownlow, 1 pt. 21.

If a Master freights out his Ship, and afterwards secretly takes in Goods unknown to the first Lad- ders, by the Law Marine he loses his Freight. And if a Master shall put into any other Port than what the Ship was freighted to, he shall answer Damage to the Merchant; unless he's forc'd in by Storm, Enemies, or Pirates; and in that Case, he is oblig'd to sail to the Port agreed at his own Expence.

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Leakage occasion'd by Storm, may come into an Average. And if Freight be taken for an hundred Tuns of Wine, and twenty of them leak out, so that there is not above eight Inches from the Buge upwards, the Freight nevertheless becomes due, for from that Gage the King can demand his Custom; but if they be under eight Inches, in the Opinion of some Persons, the Freighters may resign them to the Master for Freight, and be acquitted: Tho' others hold, that if all had leak'd out, thro' no Default in the Master, the Ship shall not lose her Freight; for the Freight arises from the Tun- nage taken; and in some Places abroad, particu- larly at *Bordeaux*, the Master is not permitted to stow the Goods, but it is done by particular Offi- cers

cers appointed for that Purpose. 26, 27 Car. 2. in *B. R. Boyce versus Cole & al'*.

A Master of a Ship is not bound to answer Freight to the Owners for Passengers, where it appears that they are not able to pay.

Where a Merchant unadvisedly takes Freight, and contracts with a Mariner, that is not a Master of a Ship, he has no Remedy against the Owners if a Loss ensues; but the Mariner is subject to an Action. But if there be a Fault committed by a Mariner, hir'd or put in by the Master or Owners, the Owners are liable to make Reparation of the Damage. *Coke, 4 Inst. fol. 146.*

If the Freighter of a Ship shall lade on Board prohibited Goods, or unlawful Merchandizes, whereby the Ship is detain'd, or the Voyage impeded, he shall answer the Freight contracted for. *Style 220.*

Where a Time is fix'd and agreed upon between the Merchant and a Master of a Ship, for the Commencement and Finishing of the Voyage, it may not be alter'd by the Supercargo, without a special Commission from the Merchant. If it be agreed, that the Master shall sail from *London* to *Port Royal* in *Jamaica*, in two Months, and Freight accordingly is agreed on, tho' the Master does not arrive at *Port Royal* within the Time, if he begins the Voyage within the two Months, the Freight is become due. And so, where an Agreement is made for the Ship to sail the first fair Wind, or Opportunity, and does not, yet afterwards breaks Ground, and arrives at her Port, the Freight becomes due. Departure intitles the Master to the Freight; and to say the Ship did not depart with the next Wind, is but a Circumstance which, in Strictness of Law, is not traversable. *Pasch. 2 Car. in B. R. Constable and Colberies versus Popbam, 161.* But if a Master shall weigh Anchor, and proceed in his Voyage, after a certain Time agreed on for his

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his Departure, he is liable to make good all Casualties at Sea, and Misfortunes whatsoever.

A Contract is made between a Merchant and a Master of a Ship, to this Effect; That if he carries the Merchant's Goods to such a Port, he will then pay him so much Money; in making the Voyage, the Ship is robb'd by Pirates, and Part of her Lading is taken forth; afterwards the Remainder is brought to the Port of Discharge; the Sum agreed upon in this Case, is not become due, for the Agreement is not perform'd on the Part of the Master, and this is a conditional Contract. *Trin. 9 Jac. in C. B. Bright versus Cooper. Brown 1. Part 21.*

But by the Civil Law it is otherwise; for the same is a Danger or Peril of the Sea, which if not express'd in Naval Agreements, yet is naturally imply'd, and there was no Default in the Master or his Mariners. And had those Goods, which the Pirates carry'd away, been thrown over Board in Strefs of Weather, the same would not have work'd a Disability in the Master to receive the Sum agreed on; for both by the Common Law, and the Law Marine, the Act of God, or that of the Enemy, shall not have an Effect to work a Wrong in Actions private. *Co. 1. pt. 97.* But a Pirate is not esteem'd an Enemy.

If a Ship is freighted from one Port to another, and so to many Ports on a trading Voyage, this is all but one Voyage. And if a Ship at Sea happens to become unable to perform her Voyage, without any Fault in the Master; or that the Master be arrested by some foreign Prince or State in his Voyage, the Master may, in the first Case, repair his Ship to make her capable of the Voyage; and in the last Case, may freight another Ship; otherwise the Master is liable to make Satisfaction for all Damages that shall happen. But if the Ship, to which the Goods are translated, perish, the
Master

Master shall answer; unless both Ships perish, when he is discharg'd. And if the Ship be in a sinking Condition, and there is extreme Necessity, the Goods may be put on Board an empty Vessel passing by, which, in all Appearance, seems sufficient; and if that Ship sinks or perishes, he is there excus'd. *Leg. Oleron. Digest. Paulus. l. 14. c. 2. Sect. 10.*

The Lading of a Ship, in Construction of Law, is bound for the Freight, the Freight being, in Point of Payment, preferr'd before any other Debts to which the Goods so laden are liable, tho' such Debts, as to Time, were precedent to the Freight; and the Actions touching the same the Law construes favourably for the Ship and her Owners, like unto Labourers for their Hire; and therefore, if four Part-Owners of Five, belonging to a Ship, shall settle their Accounts with the Freighters, and receive their Dues in Proportion, yet the fifth Man may sue singly by himself, without joining with the rest, by the Common Law, and the Law Marine. *Hill. 26, 27 Car. B. R. Stanley versus Ayles. Keble, 3 Rep. 444.*

Where Goods are fully laden aboard, and the Ship hath broke Ground, the Merchant may not afterwards unlade them; for if he changes his Mind, and resolves not to adventure, but will unlade again, by the Law Marine the Freight becomes due.

If a Vessel be not ready at the Time appointed by the Charterparty, when Part of the Goods are shipp'd on Board, the Merchant may ship the Remainder of his Goods aboard another Vessel; and Damages may be recover'd against the Master or Owners; tho' by the Law Marine, Chance, or some other notorious Necessity, will excuse the Master; but then he loseth his Freight 'till he breaks Ground, and till that Time he sustains the
Loss

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Loss of the Ship. *Mich. 10 Car. in B. R. Langdon and Stock's Case. Cro. 1 Pa. fol. 383.*

And if the Fault be in the Merchant, he is answerable both for the Damage of the Master and the Ship, or shall be oblig'd to provide for the Ship's Crew ten Days at his own Expence: And if any Damage happens afterwards, the Merchant must run the Risque of that, and not the Master or Owners. But by the Common Law, the Master having Goods on Ship-board, he is oblig'd to see them forth-coming. *1 Roll. Aridgm. Cro. 2 Part, 330.*

If Part of the Lading be on Ship-board, and through some Misfortune happening to the Merchant, he has not his full Lading aboard at the Time agreed, the Master shall have Freight by Way of Damage, for the Time those Goods were aboard, and is at his Liberty to contract with another; for these Agreements being of a conditional Nature, a Failure as to compleat Lading, will determine the same. And by the Delay of the Merchant, the Master might lose the Season of the Year, if not, in some Voyages, be defeated of the Opportunity of Passage.

Where a Ship is not ready to take in, or the Merchant not ready to lade aboard, the Parties are at Liberty; but the Person damnify'd may bring an Action against the other, to recompence and make Satisfaction for the Detriment sustain'd. By the Common Law, the Party damnify'd may by Action on the Case, recover his Damages on an Agreement; and if there be an Agreement, and Earnest given thereon, but no Writing made, and the same is broke by the Merchant, he loseth his Earnest; and if it be broke by the Owners of the Ship, or the Master, they forfeit double the Earnest. *Leg. Naval. Rhod.*

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If Freight is contracted for the Lading of Cattle from *Dublin* to *West-Chester*, &c. and some of them happen to die before the Ship's Arrival at *West-Chester*, yet the whole Freight shall be paid, both for the Living and the Dead: But if the Contract be for transporting them, and some of them happen to die, Freight shall be only paid for the Living; It is the same of Slaves: If Freight be contracted for the Transporting of Women, and they happen in the Voyage to be deliver'd of Children on Ship-board, here no Freight becomes due for the living Infants.

If any Passenger happens to die aboard, the Master of the Ship is oblig'd to make a true Inventory of his Concerns; and if none lays Claim to them within a Year, the Master becomes Proprietor of the Goods, but defeasible: The Bedding and Furniture of the Parties, the Master and Mates are intitled to, and the Cloathing is to be apprais'd, and distributed among the Crew, as a Reward for their Care in seeing the Body decently put into the Sea. *Leg. Consolat. del mere.*

A Ship in her Voyage is taken by an Enemy; and afterwards retaken by another Ship in Amity, and Restitution is made, whereby she proceeds in her Voyage; the Contract for Freight is not determined; for tho' taking by the Enemy devested the Property out of the Owners, yet by the Laws of War that Possession was defeasible, and only *pro tempore*; for being recover'd in Battel, afterwards the Owners became re-invested: So the Contract, by Fiction of Law, is of the same Validity, as if she never had been taken; and the intire Freight becomes due accordingly. 7 R. 2. *Statham Abridg.* 54.

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Of Charter-parties of Affreightment.

Charterparties of Affreightment settle Agreements, and the Bills of Lading the Contents of the Cargo, and bind the Master to deliver the Goods in good Condition at the Place of Discharge, according to the Agreement; and the Master obliges himself, Ship, Tackle, and Furniture, for Performance. If Goods are sent on Board without agreeing for the Freight, the Freight must be paid according to Custom; but if the Goods are sent to the Ship secretly, without the Master's Knowledge, the same may be subjected to what Freight the Master thinks fit.

The Common Law always construes Charterparties, as near as may be, according to the Intention and Design, and not according to the literal Sense of Traders, or those that merchandize by Sea; but they must be regularly pleaded.

Covenant by Charterparty that the Ship shall return within the River of *Thames* by a certain Time, (Dangers of the Sea excepted) and after, in the Voyage, and within the Time of the Return, the Ship was taken upon the Sea by Pirates, so that the Master could not return to the River of *Thames* at the exact Time mention'd in the Agreement: In the Case of *Pickering* and *Berkely*, it was resolv'd this Impediment was within the Exception; for the Words, (*Dangers of the Sea excepted*) intend as well any Danger upon the Sea by Pirates and Men of War, as Dangers of the Sea by Shipwreck, Tempest, or the like. *Stile* 132. *2 Roll. Abridg.* 248.

In mutual Covenants between a Master of a Ship and a Merchant, wherein the Master of the Ship covenants to sail with the first fair Wind to *Barcelona*, and that the Mariners shall attend with a Boat

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a Boat to re-lade the Ship, and then to return with the first fair Wind to *London*, and there unlade and deliver the Goods; and the Merchant covenants to pay so much for Freight, and so much for Demorage every Day; the Master brought his Action for the Freight and Demorage, and declares, that he sail'd at such a Time with the first fair Wind, and upon all the other Points: The Defendant, *quoad* the Freight, pleaded, that the Ship did not return directly to *London*, but went to *Tangier* and some other Places, whereby divers Deviations were made; and by these Delays the Goods were damnify'd. And as to the Demorage, that the same was occasion'd by the Negligence of the Mariners in not attending with the Boat to re-lade the Ship; to which the Plaintiff demurr'd; and, *per Curiam*, it was adjudg'd for the Plaintiff; for that the Covenants are reciprocal upon which each shall have his Action against the other, but shall not plead the Breach of one in Bar of another. *Cole contra Shallet. Lev. 41.*

A Ship is freighted at so much *per Month* that she shall be out, covenanted to be paid after her Arrival at the Port of *London*; the Ship is cast away coming up from the *Downs*, but the Lading is all preserv'd; the Freight shall in this Case be paid; for the Money becomes due monthly by the Contract, and the Place mention'd is only to ascertain where the Money is to be paid, and the Ship is intitled to Wages, like a Mariner that serves by the Month, who, if he dies in the Voyage, his Executors are to be answer'd *pro rata. Molloy de Jure maritimo, &c. 260.*

A Part-owner of a Ship su'd the rest of the Owners, in *Chancery*, for his Share of the Freight of a Vessel which was set out by the other Owners, (he having refus'd to join in setting her out) and had finish'd her Voyage; whereupon the other Owners complain'd in the Admiralty, and shew'd,

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That by Order there they had given Security, if the Ship perish'd in the Voyage, to make good to the Plaintiff his Share, or to that Effect: In this Case, by the Law Marine, and the Course of the Admiralty, the Plaintiff was to have no Share of the Freight. And Sir *Lionel Jenkins*, to whom the Matter was referr'd, certify'd the Course of the Admiralty to be such, and that it was so in all Places; for otherwise there would be no Navigation: Whereupon the Plaintiff's Bill was dismiss'd. *Lex Mercat.* 100.

Of Policies of Insurance.

Insurances are either publick, or private. The Difference between the publick and private Insurance is only this: That whereas the first is done at the publick Office of Assurance, and enter'd there, the latter is agreed upon between Merchant and Merchant in private. And all Insurances, whether publick or private, must be made upon the Ship, or the Goods, or upon Ship and Goods. But only those Insurances, that are enter'd in the Office of the Court, can be su'd or determin'd there. 43 *Eliz. cap. 12.*

Then there are various Kinds of Assurances, some to Places certain, and others general: Those that are made to Places certain, as upon Goods, laden or to be laden aboard outward, until the same shall be laid ashore at such a Port; or upon Goods laden or to be laden homeward, 'till the Adventure shall be landed; or upon Goods out or in. And Ships that making Trading-Voyages, deliver their Goods at one Port, and take in fresh Cargoes, and then proceed to other distant Places, and back again, this is a general Assurance, and being dangerous, the *Premium* runs higher than that of any other Voyage.

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By the Stat. 43 *Eliz. c. 12.* the Office of Assurance was erected, for deciding Differences arising upon Policies of Assurance in *London*.

This Court was held by Virtue of a standing Commission, issu'd out by the Lord Chancellor, or Lord Keeper, for the Time being, once a Year, or as often as he should think fit. The Judges or Commissioners of the Court, were the Judge of the Court of the Admiralty, the Recorder of *London*, two Doctors of the Civil Law, two common Lawyers, and eight discreet Merchants.

These Commissioners, or any five of them, were to meet weekly at the Insurance-Office, or some other publick Place, and to have Power to summon and examine Witnesses, and hear and determine all Causes in a summary Way, without the Formality of Pleading; and no Fees were to be exacted.

No Commissioner was to act or judge in any Cause wherein he was concerned, nor 'till such Time as he had taken an Oath before the Lord Mayor, to judge uprightly and indifferently between Party and Party. And an Appeal lay from their Sentence to the Lord Chancellor or Lord Keeper, the Money being first deposited by the Party appealing.

And by 14 *Car. 2. c. 25.* several additional Privileges were granted this Court, which was a Court of Equity, as well as of Law. And Commissioners were to issue out of the Court of Admiralty for Examining of Witnesses beyond Sea, by Direction of the Commissioners of the Court, and Decrees made against Body and Goods, and Execution accordingly, &c. but the Jurisdiction was never absolute, but concurrent with that of the other Courts; and now there is no such Court in Being, but such Causes are try'd in the ordinary Courts.

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So that any Man may at this Day, make a private Policy of Insurance, notwithstanding these Acts, which shall be as good and effectual in Law, to all Intents and Purposes, as one made and enter'd in that Office; and when this Court held Cognisance, such a Policy might, as well as now, be sued at the Common Law.

There is no fix'd or certain Price for the Rates of Insurances, which rise and fall according to the State of the Nation in Peace or War, the Season of the Year, and other various Occurrences. In former Wars the Rates of Insurance on a good Ship, from *London* to any Port or Place in the *East-Indies*, *China*, *Persia*, or beyond the *Cape of Good Hope* and back, was sixteen *per Cent.* but in the late War, in the Reign of King *William*, the *Premium* of Insurance on a good Ship for the like Voyage, was about twenty-two *per Cent.* And the Consideration on Bottomry about fifty-five *per Cent.*

The whole Ship is seldom insured, the Subscriptions being for Sums certain, as 50*l.* 100*l.* or 500*l.* at the *Premium* Current, which, when the Adventure is born, generally the Insurers receive; but if a Loss happens, the *Premium* is deducted, together with the usual Abatement, so that the Insur'd receive about eighty *per Cent.* in Case of a Loss.

When a Ship hath been long missing, and no Advice can be had where she is, the *Premium* in Time of War will run very high, sometimes thirty or forty *per Cent.* but then these Words are inserted in the Assurance, *lost or not lost*; and in such Case, if it happens at the Time the Subscription is made that the Ship is cast away, the Assurers must answer.

But if the Party that caused the Assurance to be made, saw the Ship wreck'd, or had certain Intelligence of it, such Subscription will not be obligatory;

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gatory; so likewise if the Assur'd having a rotten Vessel, shall assure upon the same more than she is worth, and afterwards give Order that going out of the Port she should be sunk or wreck'd, this will be adjudged fraudulent, and not oblige the Assurers to answer. *Mich. 26 Car. 2. in B. R. Stockden's Case.*

The Owners of a Vessel coming Home laden, contrive with the Master to sell the Freighters Goods privately, and then to go some small Distance out to Sea, and there sink the Vessel, and pretend she struck, and then founde'r'd by Extremity of Weather. This being contriv'd, the Owners make a Policy of Assurance on the Vessel; the Goods are afterwards sold, and the Master, with his own Hands, makes a Hole in the Bottom of the Ship, with an Iron Crow, and conveys himself and Mariners ashore, the Ship being sinking. He remits Advice of the Loss to the Owners, who boldly demanded the Money assured, and commence an Action for the same; but before the Cause came to a Trial, the Merchant which freighted the Vessel, brought an Action of *Trover* against the Owners, and thereupon the Fraud was detected, and a Verdict given for the Plaintiff, with this Intimation, that if the Owners would proceed in their Action, on the Assurance, they must expect that their Practice and Fraud would totally poison the Assurance, whereupon they never proceeded. *Hill. 32 Car. 2. in B. R. Perkins & Stoaks versus Fierbrasse & Stone, &c.* Where it is Felony to cast away or destroy a Ship in such a Case, see Stat. 12 Ann.

If a Ship be insured from the Port of London to Barcelona, or other foreign Port, and before the Ship breaks Ground she happens to take Fire, and is consumed, the Assurers are not obliged to answer; for the Adventure did not commence till the Ship was gone from the Port of London. But if in

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the Policy of Insurance the Words *at and from the Port of London* had been inserted, there the Assurers would have been liable upon such a Misfortune. And if the Ship had broke Ground, and afterwards been driven by Storm back to the Port of *London*, and there had took Fire, the Insurers must have answer'd. The Port of *London* extends from *London-Bridge* to the *North-Foreland* in the Isle of *Thanet*. *Rot. Scacar. 15 Car. 2.*

Where Goods are insured in a Ship bound to any foreign Port, and in the Voyage she happens to become leaky or receive other Damage, and the Supercargo and Master agree to freight another Vessel for the Preservation of the Goods; and then after her Re-lading, the second Vessel has the Misfortune to be lost, the Assurers are discharg'd, without a special Clause to make them liable; *sed Quære*. The Opinions of the Court have generally inclin'd against the Assurers. And if Goods be lawfully insur'd, and afterwards the Vessel becomes disabled, by Reason of which, with the Consent of the Supercargo or Merchant, they are re-laden into another Vessel, and that Vessel proves the Ship of an Enemy, by Reason of which, on her Arrival, she is subject to Seizure; in this Case, it is said the Insurers shall answer, for that is such an Accident as is within the Intention of the Policy, where the Policy mentions against *Dangers of the Seas, Enemies, &c.* as Policies generally do.

A Merchant insures his Goods from *London* to any Port abroad, and there to be landed; the Factor, after Arrival, sells the the Cargo abroad without ever unlading the Ship; and the Buyer contracts for the Freight of those Goods for some other Port; but before the Ship breaks Ground, the Ship is by some Accident destroyed, the Assured and Buyer are left without Remedy; for the Property of the Goods being chang'd, and Freight being contracted *de novo*, the same amount-

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ed to as much as if the Goods had been landed. *Locin. l. 2. c. 5.* By the Laws of *Antwerp*, the Adventure is to be born by the Insurers fifteen Days after the Ship's Arrival in Port.

If a Man in a foreign Country insures a Ship from thence to *London*, and a Loss happens, the Assurer, if he comes into *England*, shall answer by the Common Law here; for the Action brought is grounded on the Promise, which is transitory and not local; And so it was adjudged, where the Defendant, in Consideration of 10*l.* had insured, that if the Plaintiff's Ship and Goods did not come safe to *London*, he would pay 100*l.* Afterwards the Ship was robb'd on the Sea; and in an Action brought for the 100*l.* the Plaintiff had Judgment, notwithstanding the Robbery or Loss was on the main Sea, and the Subscription out of the Realm. 37 H. 8. *Mich. 30. 31 Eliz.*

Goods were insur'd from *London* to *Naples*, warranted to depart with Convoy; the Ship departed with Convoy, but was separated by Stress of Weather, and putting into *Torbay*, was there detain'd by contrary Winds; afterwards the Master of the Ship, expecting to meet the Men of War that were Convoy, sail'd out of the Harbour, but could not find them by Reason of the Badness of the Weather, and the Ship was taken by the Enemy: The Insurers were answerable. *Salk. Rep. 443.*

If a Merchant freights Wool, Leather, &c. or sends out Goods in a foreign Bottom, and then making a Policy of Insurance, the Ship happens afterwards to be taken, by Reason of which there becomes a Forfeiture of Ship and Lading, the Insurers are not in such Case liable to answer the Damage; for the Foundation was illegal, and the Law supports only those Assurances that are made *bona fide.* 12 Car. 2. c. 32.

And if Persons lade contraband Goods in *England*, knowingly, and afterwards insure the same, if

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if they are seized by the King's Officers, the Insurers are not obliged to bear the Loss: But if Goods be insured, not being contraband at the Time of the Lading and Insurance, but become such by some *posterior* Act or Declaration, and are afterwards seized, then the Assurers must answer.

If Goods are stoln or imbezil'd on Ship-board, the Master, not the Assurer, is answerable. It matters not in the Policy, whether the particular Wares and Goods are named, but generally Mention is made of the principal Wares, and all other Commodities laden or to be laden for the Insured, &c. If a Man insures Goods to the Value of 5000*l.* and he hath but 2000*l.* remitted. Now, he having insured a real Adventure, if a Loss happens, by the Law Marine, all the Assurers are compellable to answer *pro rata*: But this is more the Custom of Merchants than Law; and by the Opinion of some Persons, only the first Subscribers, who under-writ so much as the real Adventure amounted to, are to be made liable, and the rest are to have their *Premiums* deducted, and to be discharg'd. *Grot. Introd. Jur. Holl.* 212. 23.

Where a Ship that is insured is taken by the Pirates, this is understood the Perils of the Sea, as hath been before observed. *Pickering* against *Barkley. Stile* 132. And where Goods are redeemed from a Pirate, Contribution must be paid by all the Insurers, because the Redemption is made for the Safety of all. So Contribution shall be paid where Goods are injur'd by Wet, or receive Damage by any other Accident. And if it be absolutely necessary to lighten a Ship for her easy Entrance into Harbour, or a Channel, two Parts of the Loss shall fall upon the Goods, and the third upon the Ship, unless the Ship is of greater Value than the Lading, and the Charge of the Goods be not the Cause of her Inability to enter, through some bad Quality proceeding from the Ship its self;
or

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or that it is otherwise provided in the Charterparty.
Lex Mercat. 109.

If one Merchant hath insur'd the greatest Part of the Adventure of a Ship, and Advice is received of a Loss, but with Hope of Recovery, whereby he would have the Assistance of the Insurers, he has a Privilege to make a Renunciation of the Lading to the Assurers, and to come in himself, in the Nature of an Insurer, for so much as shall appear he hath born the Adventure of beyond his Part of the Value insur'd. And if the Merchant shall not renounce; yet there is a Power given in the Policy for him to travel, and endeavour a Recovery of the Adventure, after a Misfortune, to which the Assurers are to contribute, the same being a Trouble for the Ease of them.

As to the Recovery of Money insured, when you have receiv'd certain Advice of the Loss of the Ship or Goods, you are to make Application to the Insurers, and produce your Vouchers; with which, if they are satisfied, they will pay the Money, deducting the *Premium*, without Scruple; nor can they make any Scruple, except they have some reasonable Ground to found it upon; in which Case, the Party who has insur'd the Sums, must wait a convenient Time, according to the Distance of the Place where the Ship is affirmed to be lost, 'till certain Advice can be obtain'd by the Insurers about it; or if nothing can be heard of the Ship in any reasonable Time, then the Insurers are obliged forthwith to pay the Money; but if after that, it should happen that the Ship should arrive safe, the Money is to be returned to the Insurers.

And when it happens that some Part only of the Effects insur'd are lost, as in the Case of Ejections in a Storm, or other such Accidents; then the Insurers make an Average of it, and each Man
pays

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pays so much *per Cent.* in Proportion to the Sum for which he subscribed.

Assurances may be made on Goods sent by Land, &c. and may be also on Mens Heads; as if a Man is going for the *Streights*, and is in Danger of being taken by the *Moors* or *Turkish* Pirates, and so made a Slave, whereby a Ransom must be paid for his Redemption, he may advance a *Premium* accordingly upon a Policy of Assurance; and if there be a Caption, the Assurer must answer the Ransom secur'd by the Policy. *Mich* 29 *Car.* 2. in *B. R.* *Lisle* ver. *Sedgwick*.

By an Act of 6 *Geo.* c. 18. the King is impow'rd to grant two Charters for Assurance of Ships and Merchandise, &c. in *London*; and the Corporations are to have a common Seal, and purchase Lands, &c. and may raise Money, not exceeding such a Sum by Subscription, &c. And all other Corporations for Assurance, and their Policies are declared void.

This Statute was made on the Corporation's advancing a large Sum of Money to his Majesty, towards Discharging the Debts of the Civil List.

Bills of Exchange.

When a Ship is freighted, the Voyage insur'd, and Ship arriv'd in a foreign Country, the Merchant is oftentimes at a Loss for want of a Knowledge in the Business of Exchange; for which Reason I shall in this Place insert a short Account thereof, and of Bills of Exchange.

Exchange is a Commerce of Money, or a bartering or exchanging of the Money of one City or Country for that of another; performed by an Instrument in Writing, called a *Bill of Exchange*.
And

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And *Re-Exchange* is the like Sum of Money payable by the Drawer of a Bill which is return'd protested, for the Exchange of the Sum mention'd in the Bill sent back again to the Place whence it was drawn.

And Money in general is divided into two Sorts, imaginary, and real. By imaginary Money is understood all the Denominations used to express any Sum of Money which is not the just Value of the real Species. And by real Money is meant any real Species current in this or any other Country, at a certain Price; defin'd to be a certain Quantity of Metal, coin'd by the Authority of the State, and passing at a certain Price by Virtue of the said Authority, and of its own intrinsick Value; such as a Guinea, a Crown, Shilling, &c.

At *London* all Exchanges are made upon the Pound *Sterling*, of 20*s.* and 12*d.* to the Shilling; in the *Low Countries*, *France*, and *Germany*, upon the *French Crown*; *Spain*, *Italy*, &c. upon the *Ducat*; *Florence*, *Venice*, and other Places in the *Streights*, commonly by the *Dollar* and *Florin*.

The Methods of Exchange used in *England* is *par pro pari*, according to Value for Value. Our Exchange is grounded on the Weight and Fineness of our own Money, and the Weight and Fineness of that of other Countries, according to their several Standards, proportionably in their Valuation, which being truly and justly made, reduces the Price of the Exchange of Money of any Nation or Country to a Certainty. But this Course of Exchange is of late abused, and Money is become a Merchandise that over-rules Commodities, and rises and falls in Price according to the Plenty and Scarcity of Coin.

By the Par of real Money is understood the Equality of the intrinsick Value of the real
Species

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Species of any Country, with those of another: And so a *French* Crown is not upon a *Par* with ours; the Specie is equal to our four Shillings Six-pence only.

In the drawing a Bill of Exchange for Money, observe the following Rules; set down at the Top of the Bill the Date and Place where drawn, and in the same Line in Figures, the Sum for which the Bill is drawn; put down in the Bill the Time of Payment; the Quality of the Bill; the Name of the Person in whose Favour drawn; for what Sum of Money; the Quality of the Money; the Price of Exchange; how the Value is receiv'd, and of whom; what Advice the Person, on whom the Bill is drawn, is to expect; then subscribe your Name; and lastly, direct it to the Person who is to pay the Bill.

Bills of Exchange are drawn either payable at Sight, as at so many Days, Weeks, or Months Sight; at one, two, or more Usances; on a certain Day specified in the Bill; or at a certain Fair. The Compass of one Month from the Date of the Bill, is called *Usance*; and two or three Months is called double or treble Usance; and the Times of Payment alters the Price of Exchanges: If it be so long Time as a Year, it is commonly after the Rate of 12 or 15 *per Cent*.

If a Bill of Exchange be drawn at Sight, in Default of Payment at Presentation, the Bearer is forthwith to cause it to be protested for Nonpayment: And the Bill being protested is to be returned with the Protest, with all convenient Speed, (fourteen Days is the utmost Time allowed) to the last Indorfor, (if any) who must immediately make good the Value, with the Exchange, Charges of Protest, and Postage of Letters, &c. for all which he has his Remedy against the former Indorfor; and he against the Drawer of the Bill, who is answerable

swerable for the whole: But if the Bearer neglects to make such Protest, he himself shall be answerable.

Every Indorfor of a Bill will be always liable as the first Drawer; and not be discharged by the Indorsee's Acceptance of the Bill. But by the *Custom of Merchants*, the Indorsee is to receive the Money of the first Drawer, if he can; and if he cannot, (as where the Drawer is become insolvent, or not to be found, &c.) then, and not before, the Indorfor should answer the Debt. Chief Just. *Holt. Salk. Rep.*

Where Bills are drawn payable at some Days Sight, it is usual to leave them in the Hands of the Merchant, (if he be a good Man) a convenient Time for Acceptation (not exceeding twenty-four Hours). And when the Time is expired, by Custom three Days, called *Days of Grace*, are allowed in *England*, six in *Holland*, and ten in *France*; but it is, nevertheless, customary amongst substantial Dealers in most Countries, to pay such Bills at Presentation, or within twenty-four Hours after.

The Time allowed the Merchant for the Acceptance and Payment of the Bill, he is to enter in his Books, and consult Advices he receives from the Drawer; (for, to prevent Forgeries and Impositions, it is not customary for Merchants to accept or pay Bills of Exchange without particular Advice from the Drawers). But on a Post-Day, the Presenter may demand an Answer, that if the Bill should not be accepted, he may have Time to cause the Bill to be protested, and return the Bill and Protest by the Post; wherein he is exactly to observe Orders, otherwise he himself runs all Hazards. *Protesting* Bills of Exchange is defin'd to be a Sort of Summons, made to a Person to accept or pay a Bill, by such Officers as are for
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that End appointed by the Laws of the Country, with a Protestation against the Refuser for Exchange, Re-Exchange, Interest, and all Charges, Damages, and Losses that may be sustained or occasion'd by such Refusal. And the Use of a Protest is, to subject the Drawer to answer in Case of Non-Acceptance or Non-payment.

In drawing of Bills, where there are Partners in Merchandise, the Signing of one of them for *Self and Company*, obliges the other Partner to fulfil the Contents of the Instrument so sign'd; and he is equally bound with the other Partner that did sign it: But without the Words, *For Self and Company*, it shall not be of any Force against the Party that has not sign'd.

And if there be three or four Joint-Traders for the common Stock and Benefit of all, and their Factor, or any other Person, draws a Bill on them, the Acceptance of one will oblige the rest of the Company. *Mich. 19 Jac. Vanbath versus Turner. Winch. 24, 25. contra*, if they are not Joint-Traders. If a Merchant gives Letters of Credit to his Factor, he is obliged to accept and make good Bills of Exchange for Money advanc'd for the Use of such Factor, by Virtue of such Letters.

On Receipt of a Bill of Exchange, the Party is to go immediately to the Person to whom directed, and present the same, in order to his Acceptance. On Tender of the Bill, the Party subscribes *Accepted*, and signs his Name; or if on the Exchange, the Merchant says, *I accept the Bill*, and will pay it according to the Contents, this amounts to an Acceptance.

If one Merchant, having a right Understanding with another, says, *Leave your Bill with me, and I will accept it*; or, *Call for it To-morrow, and it shall be accepted*, it obliges him, by the Custom of Merchants,

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Merchants, as effectually, as if he had subscrib'd or sign'd it.

Another Person may accept the Bill for the Honour of the Drawer; but if he pays the Money in Default of the Party, before Payment, he is to make a Protest, with a Declaration, that he hath paid the same for the Honour of the Drawer, otherwise he will have some Difficulty to receive his Money again.

A Bill may be accepted for Part, for that the Person upon whom the same was drawn, had no more Effects in his Hands; and in this Case, there must be a Protest for the Residue, after Payment of Part. *Trin. 20 Car. 2. in B. R.*

A Bill once accepted cannot be revok'd by him who accepted it, though immediately after and before the Bill becomes due, he hath Advice that the Drawer is broke. *Rastal, fol. 339.* And where a Merchant hath accepted, and before the Money becomes due he is insolvent, or his Credit is blasted, the Drawer is compellable to give better Security; but then there must be a Protest, and a Demand made.

If a Bill be return'd protested, the Drawer may procure Security from another Person, which is no more than for such Person to subscribe the Bill in these Words, *I here under-written do bind my self as Principal, according to the Custom of Merchants, for the Sum mentioned in the Bill of Exchange whereupon this Protest is made. Dated, &c.*

The Drawer of a Bill is bound to the Deliverer, and the Acceptor to the Party to whom the Bill is made payable; and both are liable 'till the Bill is paid. If a Man pay a Bill of Exchange before it is due, and the Person to whom paid breaks before the Time of Payment mentioned in the Bill, he shall be obliged to pay it again unto the Deliverer; for the Drawer might have countermanded

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the same, or order'd the Bill to be made payable to another Person.

A Wife or Servant cannot accept of a Bill of Exchange to bind the Master, without a lawful Authority under Hand, or that it hath been usually done by them; and then it will only oblige, when the Master is from Home. *Style's Rep.* 307. And if a Merchant, to whom a Bill is payable, be absent, or sick, his Friend, or Servant, may cause a Protest to be made.

If a Bill is left with a Merchant to accept, and he loses or mis-lays the same, the Party shall insist upon a Note for the Payment at the Time limited, according to the Bill of Exchange; and if the Merchant refuses, there must be two Protests, one for Non-acceptance, and the other for Non-payment: And there may be a Protest for Non-payment on the Note.

And when a Possessor of a Bill by any Accident loses it, he must forthwith cause Intimation to be made by a *Notary Publick*, before Witnesses, that the Bill is lost or mislaid, requiring that Payment be not made of the same to any Person without his Privy.

If a Bill of Exchange, by contrary Wind, or through any other Means, be so long on the Way, that the Time limited by the Bill is expired; and being tender'd, both Acceptance and Payment are deny'd; Protests for both must be made, and the Drawer shall answer the Value, Re-change, and Damage.

Where any Bill of Exchange, drawn in, or dated at and from any Place of this Kingdom, shall be lost, or mis-carry within the Time limited for Payment of the same, the Drawer shall give another Bill of the same Tenour; Security being given to indemnify him, in Case the Bill so lost, be found again. Stat. 9 & 10 W. 3. c. 17.

If

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If a Bill be accepted, and the Person who accepted the same happens to die before the Time of Payment, there must be a Demand made of his Executors or Administrators; and in Default of Payment, a Protest must be made, although the Money become due before there can be Administrators, or the *Probate* of the Will be granted. But, on the other Hand, if the Party be dead to whom the Money is payable, and the Money ready to be paid, a Protest ought not to go for Non-payment, till there is a Person that can give a legal Discharge.

Where a Man is not to be found, or, being once found, is not to be met withal either at Home, or the *Exchange*, it is Cause sufficient for a Protest. And if you enter a Protest of an accepted Bill for Default in Payment, keep the Bill by you, and transmit the Protest only to the Drawer, whereby you may recover the Money of him.

If a Bill be returned protested for Non-payment, after once satisfied by the Drawer to the Deliverer, the Drawer is discharged; and so is the Person on whom drawn, as to him to whom the Money was to be paid; but if he accepts the Bill by Virtue thereof, he becomes Debtor to the Drawer, according to the Custom of Merchants.

If a Bill is not accepted to be paid at the exact Time, it must be protested; for if it be accepted for a longer Time than mentioned in the Bill, the Party to whom the Bill is made payable, is to protest the same, for want of Acceptance, according to the Tenour; but he may notwithstanding take the Acceptance offer'd.

To intitle a Man to an Action at Law, in *England*, against an Acceptor of a Bill, it matters not whether there be a Protest; but to intitle the Party to a Recovery against the Drawer, in any Place,

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transmarine, there must be a Protest made before a *Publick Notary*

A Bill is remitted to *A. B.* who owes Money to *C. D.* *A. B.* delivers the Bill to *C. D.* and on the Backside subscribes his Name; now, if *C. D.* receives the Money, he may fill up the Blank as if the Money had been actually paid to *A. B.* This is customary among Merchants, and by them reputed firm and good. But the Common Law looks upon this filling up, after a Man hath sign'd, to be nothing less than Forgery; unless there be either a general or special Authority to warrant it, when it may alter the Law. *Hill. 28 Car. 2. in B. R.* Opinion of my Lord *Hale*.

A blank Indorsement, without some further Act, does not actually transfer the Property of a Bill of Exchange; but the Person to whom it is indorsed, may fill up the Indorsement, and charge the Indorser, &c. For where one indorses his Name on a Bill, the Indorsee may make what use of it he pleases, by Way of Assignment, Acquittance, &c. *1 Salk. Rep. 126.*

A Bill drawn by a Merchant in *London*, payable by a Person residing beyond the Seas, by the Laws of most Countries, is assignable over from Merchant to Merchant; and the last Person may sue and recover upon an Acceptance: But in *England* it was otherwise, for only the first Person mentioned in the Bill, to whom the Money was made payable, might recover; though such Person might, for valuable Consideration, deliver this Bill to another, indorsing an Order on the Backside; and if the Party afterwards made Default in Payment, the Person to whom the same was transferr'd, by Indorsement, might sue in his own Name, laying the same by Way of Custom.

Promis-

Promissory Notes.

This Method of Proceeding on Bills is altered by a late Statute, which gives a Remedy on Promissory Notes. All Promissory Notes made and sign'd by any Person or Persons, Body Politick or Corporate, or by the Servant or Agent of any Corporation, Banker, Goldsmith, Merchant, or Trader, usually intrusted by them, shall be assignable or indorsible over, as Inland Bills of Exchange, according to the Custom of Merchants; and an Action may be maintain'd against the Person that sign'd or indors'd the same. If an Inland Bill of Exchange shall be refused Acceptance, by underwriting the same on Presentation; or on the Expiration of three Days, after it becomes due, shall be refused Payment, the Party is to cause the Bill to be protested, as in Case of foreign Bills of Exchange. And no Drawer shall be compellable to pay any Costs or Damages, unless a Protest be made and sent, or Notice given thereof, within fourteen Days. *Proviso*, that no such Protest shall be necessary, either for Non-acceptance, or Non-payment of any Inland Bill of Exchange, except the Value be acknowledg'd and express'd in such Bill to be receiv'd, and unless such Bill be drawn for the Payment of twenty Pounds Sterling, or upwards. Stat. 3 & 4 *Annæ*.

By 9 & 10 *W. 3.* Bills of Exchange drawn in *England* of the Sum of 5*l.* or upwards, *Value receiv'd*, on any Person in *London*, or other trading Place, may after Acceptance be protested by a *Notary Publick*, or other substantial Person, before two Witnesses, on Refusal or Neglect, to pay the Money, &c.

Prosecutions on Bills of Exchange.

Processes at Law concerning Bills of Exchange, are shorter than in any other Case ; but no Remedy can be taken against either the Drawers, Indorsors, or Acceptants, unless the Bills are duly protested. And not only the Possessors of Bills, but their Heirs, Executors, or Administrators, may sue the Parties concern'd in a protested Bill of Exchange, and have speedy Justice.

No Appeal lies to superior Courts, till the Value of the Bills is actually deposited. And it is not necessary, as in other Causes, to prove the Acceptation by Witnesses, &c. In most Countries, Execution of Body and Goods is the immediate Consequence on prosecuting a Bill of Exchange, against the Drawers and Indorsors, as well as the Acceptant.

PRECE-

P R E C E D E N T S.

A Deed of Charterparty of Affreightment.

THIS Charterparty, indented, made, &c. between *A. B.* of, &c. Mariner, Master, and Owner of the Good Ship or Vessel, call'd the *George*, now riding at Anchor in the River, &c. of the Burthen of One hundred Tuns, or thereabouts, of the one Part; and *C. D.* of the City of *London*, Merchant, of the other Part; *witnesseth*, That the said *A. B.* for the Considerations herein aftermention'd, *hath* granted, and to Freight letten, and, by these Presents, *doth* grant, and to Freight let, unto the said *C. D.* his Executors, Administrators, and Assigns, the whole Tunnage of the Hold, Stern-Sheets, and Half-Deck of the said Ship, or Vessel, call'd, &c. from the Port of *London*, to, &c. in a Voyage to be made with the said Ship, in Manner hereafter mention'd, (that is to say) to sail with the first fair Wind and Weather that shall happen after, &c. or before, &c. next, from the Port of *London*, with the Goods and Merchandize of the said *C. D.* his Factors or Assigns, on Board, to, &c. aforesaid; there to be discharg'd of her said Cargo, within twenty-one Days next after her Arrival there, for the End of her said Voyage. *In Consideration* whereof, the said *C. D.* for himself, his Executors, and Administrators, doth covenant, promise, and grant, to and with the said *A. B.* his Executors, Administrators, and Assigns, by these Presents, that he the said *C. D.* his Executors, Administrators, Factors, or Assigns, shall and will well and truly pay, or cause to be paid, unto the said *A. B.* his Executors, Administrators, or Assigns, for the Freight of the said Ship and Goods, the

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Sum of, *£c.* within twenty-one Days after the said Ship's Arrival, and Goods discharg'd at the Port of, *£c.* aforesaid, for the End of the said Voyage. *And* also shall and will pay for Demorage (if any shall be by Default of him the said *C. D.* his Factors or Assigns) the Sum of, *£c.* *per* Day, daily and every Day, as the same shall grow due. *And* the said *A. B.* for himself, his Executors, and Administrators, doth covenant, promise, and grant, to and with the said *C. D.* his Executors, Administrators, and Assigns, by these Presents, that the said Ship or Vessel shall be ready at the said Port of, *£c.* to take in Goods by the said, *£c.* on or before, *£c.* next coming. *And* within ten Days next after the said Ship or Vessel shall arrive at the said Port, in Manner and according to the Times aforesaid, he the said *C. D.* doth promise to have his Goods ready to put on Board the said Ship, to proceed on in the said Voyage. *And* the said *A. B.* for himself, his Executors, and Administrators, doth farther covenant, promise, and grant, to and with the said *C. D.* his Executors, Administrators, and Assigns, that the said Ship or Vessel, now is, and at all Times, during the said Voyage, shall be, to the best Endeavour of the said *A. B.* his Executors and Administrators, and at his and their own proper Costs and Charges, in all Things made and kept stiff, staunch, strong, well-apparrell'd, furnish'd and provided as well with Men and Mariners sufficient and able to sail, guide, and govern the said Ship, as with all Manner of Rigging, Boats, Tackle, Furniture, Provision, and Appurtenances, fitting and necessary for the said Men and Mariners, and for the said Ship during the Voyage aforesaid. *In Witness, &c.*

A Char-

A Charterparty, where a Ship is to put in at several Ports, and discharge and re-lade Goods, at so much per Tun, &c.

THIS Charterparty, indented, &c. witnesseth, &c. (*Here recite a Grant of the Ship to freight, from A. B. to C. D. and to sail, &c.*) And there discharge and unlade the said Goods and Merchandizes out of her; and there also to receive, re-lade, and take in aboard the said Ship, all such other Goods and Merchandizes as she may conveniently stow and carry as aforesaid, and as the said C. D. his Factors, or Assigns, shall appoint, and think fit to lade into her. *And then* the said Ship, with the first good Wind and Weather, (the Danger of the Sea excepted) shall directly sail to the Island of, &c. and shall there unlade and make Discharge of the said Goods, and re-lade again according to the Direction and Appointment of the said C. D. his Factors, or Assigns; and with such Goods, Wares, and Merchandizes, as the said C. D. his Factors, or Assigns, shall think fit to lade into her, not exceeding the Proportion that the said Ship can safely stow and carry, as aforesaid. *And then* the said Ship, with the first good Wind and Weather, shall directly sail to, &c. in the Kingdom of, &c. and there unlade and make Discharge of the said Goods and Merchandizes; And shall there re-lade and take into and aboard her again, all such Goods and Merchandizes as are there usually laden, according to the Order and Direction of the said C. D. his Factors, or Assigns, which the said C. D. his Factors, or Assigns, shall think fit to re-lade, or cause to be re-laden, aboard the said Ship, and which she may conveniently stow and carry in her, as aforesaid, over and above her Victuals, Tackle, and

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and Apparel. *And* then the said Ship, so laden at, &c. afore said, as Wind and Weather shall serve, shall sail to, &c. *And* it is further agreed by and between the said Parties to these Presents, that the said Ship shall tarry and abide at, &c. and, &c. before-mention'd, for her several Discharges and Re-lading, the Space of sixty Days in the Whole, that is to say, at, &c. twenty Days; and at, &c. within which several Times, the said *A. B.* for himself, his Executors, and Administrators, covenants by these Presents, to discharge and re-lade the said Ship, at the several Ports of, &c. in Manner afore said. *And* the said *C. D.* for himself, his Executors, Administrators, Factors, and Assigns, doth hereby covenant with the said *A. B.* his Executors, Administrators, and Assigns, that he the said *C. D.* his, &c. shall and will well and truly pay, or cause to be paid, unto the said *A. B.* his Executors, Administrators, or Assigns, Freight for the said Ship, after the Rate of four Pounds of, &c. the Tun, for every Tun of Goods and Merchandizes that shall be unladen of and from the said Ship, at the several Ports and Places above-mentioned, (or so much *per* Tun, for all Merchandizes unladen at the Port of, &c. and so much *per* Tun, for all Goods and Merchandizes unladen at, &c. mentioning the particular Ports: Or if the Agreement be at a monthly Payment, to pay after the Rate of, &c. monthly, accounting the Months as they shall fall out in the Kalendar, for every Month that the said Ship shall remain and be in the Service and Employment of the said *C. D.* his Factors, or Assigns, by Virtue of these Presents, and in Proportion for a shorter Time than a Month, to commence from, &c. and continue till her Return to, &c. from her said intended Voyage.) *And also*, that all such Sum or Sums of Money, that shall arise, and grow due and payable, for the Freight and Hire of the said Ship, as afore said, shall be satisfy'd and paid unto the said

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said *A. B.* his Executors, Administrators, or Assigns, within seven Days, next after the Discharge of the said Ship at, &c. aforesaid, according to the Course of Exchange there. *And* it is agreed by and between the said Parties to these Presents, that in Case the said *C. D.* shall not fully lade the said Ship, at the Ports and Places aforesaid, appointed for the Lading thereof, or any of them; yet, nevertheless, the said *C. D.* his Executors, &c. shall well and truly pay or cause to be paid, unto the said *A. B.* his Executors, Administrators, or Assigns, at and after the Rate of 4*l.* the Tun, for so many Tuns as the said Ship can or may conveniently stow or carry, in Manner and Form aforesaid, together with Average accustom'd. *And also*, that all Port-Charges, that shall arise and grow due, to be paid for, and in Respect of the said Ship, in the said intended Voyage, shall be satisfy'd and paid, two Parts thereof, by the said *C. D.* his Factors, or Assigns; and one third Part thereof by the said *A. B.* his Executors, or Assigns. *And farther*, that the said Master, his Factors, or Assigns, shall not lade or cause to be laden, any Goods or Merchandizes aboard the said Ship, for any other Merchant or Persons whatsoever, besides the said *C. D.* save only, &c. for the Master's own Use, &c. *And lastly*, for the Performance of all and singular the Covenants, Grants, Articles, and Agreements, herein contain'd, on the Part and Behalf of the said *A. B.* his Executors, or Administrators, to be done and perform'd, the said *A. B.* binds himself, his Executors, and Administrators, and especially the said Ship, with her Tackle, Apparel, and Furniture, unto the said *C. D.* his Executors, Administrators, and Assigns, in the penal Sum of One thousand Pounds of, &c. by these Presents. (The like Covenant from *C. D.* binding himself, his Executors, &c. and his Goods and Chattels). *In Witness, &c.*

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A Policy of Insurance of a Ship, out in a Voyage.

KNOW all Men by these Presents, that *A. B.* of, &c. Merchant, as well in his own Name, as for and in the Name and Names of all and every other Person and Persons, whom the same may or shall concern, *Doth* make Assurance, and hereby cause himself, and them, and every of them, to be assured, lost or not lost, at and from the Port of *London*, to, &c. in the Kingdom of, &c. and at and from thence back to *London*, upon the Body, Tackle, Apparel, Ordnance, Munition, Artillery, Boat, and other Furniture, of and in the Good Ship *Dragon*, Burthen, &c. or thereabouts, whereof *E. F.* is Master; beginning the Adventure upon the said Ship, from and immediately following the Day of the Date hereof, and so to continue and endure, until the said Ship, with her said Tackle, Apparel, &c. shall be arriv'd at, &c. as aforesaid, and during her Abode and Stay there, and farther, until the said Ship, with all her Tackle, Apparel, &c. shall be arriv'd back at *London*, and hath there moor'd at Anchor twenty-four Hours. And it shall be lawful for the said Ship, in this Voyage, to proceed and sail to, and touch and stay at, any Ports and Places whatsoever, especially at, &c. without Prejudice to this Assurance. The said Ship, &c. for so much as concerns the Assureds, is and shall be rated and valu'd at, &c. Sterling, without farther Account to be given by the Assureds for the same: And touching the Adventures and Perils, which we the Assurers are content to bear, and do take upon us in this Voyage, they are of the Seas, Men of War, Fire, Enemies, Pirates, Rovers, Thieves, Jetzons, Letters of Mart and Counter-Mart,

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Mart, Surprizals, and taking at Sea, Arrests, Restraints, and Detainments of all Kings, Princes, and People of what Nation, Condition, or Quality soever, Barratry of the Master and Mariners, and of other Perils, Losses, and Misfortunes that have or shall come to the Hurt, Detriment, or Damage of the said Ship, &c. or any Part thereof. *And*, in Case of any Misfortune, it shall be lawful for the Assured, their Factors, Servants, and Assigns, to sue, labour, and travel for, in, and about the Defence, Safeguard, and Recovery of the said Ship, &c. or any Part thereof, without Prejudice to this Assurance; to the Charges whereof, we the Assurers will contribute each of us according to the Rate and Quantity of his Sum herein assur'd. *And* so we the Assurers are contented, and do hereby promise, and bind our selves, (each for his own Part) our Heirs, Executors, Goods, and Chartels, to the Assured, their Executors, Administrators, and Assigns, for the true Performance of the Premises, confessing our selves paid the Consideration due to us for this Assurance, by, &c. at and after the Rate of, &c. *per Cent.* and in Case of Loss, to abate, &c. *per Cent.* and to pay without farther Proof of any Interest whatsoever, more than this present Policy: Any Use or Custom to the contrary notwithstanding. *In Witness, &c.*

A Policy of Insurance of Goods, Out and Home.

IN the Name of God, Amen. I *A B.* &c. do make Assurance, &c. upon all Kinds of Goods and Merchandizes whatsoever, laden or to be laden aboard the good Ship, &c. Burthen, &c. whereof *E. F.* is Master for this present Voyage, to, &c. or whosoever else shall go for Master in the said Ship, or by whatsoever other Names the said Ship
or

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or Master thereof is, or shall be nam'd or call'd : Beginning the Adventure upon the said Goods and Merchandizes, from and immediately following the Loading thereof aboard the said Ship at *London* ; And so shall continue and indure, until the said Ship, with the said Goods and Merchandizes, shall be arriv'd at, &c. and the Goods and Merchandizes there safely landed ; and then the Adventure to begin on other Goods and Merchandizes from the Loading thereof aboard the said Ship, at, &c. and so shall continue and endure until the said Goods and Merchandizes shall arrive at *London*, and the same there safely landed. And it shall be lawful for the said Ship to stop at, &c. The said Goods and Merchandizes, by Agreement, are, and shall be valu'd at, &c. *As in the preceding Policy.*

Of Ship and Goods.

Where the Ship and Goods are both insur'd, say, *Upon all Kind of Goods and Merchandizes ; and also upon the Body, Tackle, Apparel, Ordnance, Munition, Artillery, Boat, and other Furniture, of and in the good Ship or Vessel call'd, &c. beginning the Adventure, &c. and so shall continue and endure during, &c. until the said Goods and Merchandizes shall be arriv'd at, &c. And upon the said Ship, &c. until she hath there moor'd at Anchor twenty-four Hours in Safety. And upon the Goods and Merchandizes, until the same be there discharg'd and landed.*

An

Merchant's Companion. III

*An Assurance of Goods, to pay a Sum certain
in Case of Loss.*

KNOW all Men by these Presents, That I *A. B.* of, &c. do hereby assure unto *C. D.* the Sum of, &c. Sterling, being the full Price and Value of Goods for and on the Behalf of the said *C. D.* laden and to be laden aboard the good Ship call'd, &c. of the Burthen of, &c. or thereabouts, whereof, &c. is now Master, bound from the Port of *London*, to the Port of, &c. in the Kingdom of, &c. until the said Ship shall be arriv'd, and the Goods discharg'd and laid on Land in Safety, in the said Port of, &c. And I do declare, That this present Writing of Assurance shall be of as good Force and Strength to all Intents and Purposes, as if I the said *A. B.* had been bound by Policy of Assurance, either ordinary or extraordinary, made in the Office of Assurance in the *Royal Exchange, London*. And I do hereby acknowledge my self fully satisfy'd and paid for this Assurance, by the Hands of the said *C. D.* after the Rate of, &c. per Cent. And therefore I the said *A. B.* do bind my self, my Executors, and Administrators, firmly by these Presents, that if by any Misfortune, the Goods and Merchandizes aforesaid, so laden or to be laden, outward-bound in the said Ship, shall perish in the said Voyage, in Part or in All, to pay, or cause to be paid unto the said *C. D.* his Executors, Administrators, or Assigns, the full Sum of, &c. or so much thereof as the Goods lost shall amount unto, within the Space of, &c. after Notice given, and Proof made of the said Loss. *In Witness, &c.*

A Bar-

A Bargain and Sale of Merchandizes laden on Board a Ship, and an Assignment of a Policy of Insurance, made as a Security for a Sum of Money borrow'd.

THIS Indenture made, &c. between *A. B.* of, &c. Merchant, of the one Part, and *C. D.* of, &c. of the other Part, *Witnesseth*, That the said *A. B.* for and in Consideration of the Sum of, &c. to him in Hand paid by the said *C. D.* the Receipt whereof he the said *A. B.* doth hereby confess and acknowledge, *Hath* granted, bargain'd, and sold, and by these Presents doth grant, &c. unto the said *C. D.* all the Goods, Wares, and Merchandizes, mention'd and exprefs'd in a certain Invoice or Paper, bearing Date, &c. and lately shipp'd on Board the good Ship, call'd, &c. of, &c. whereof, &c. is Master, bound for, &c. on the proper Account and Risque of the said *A. B.* and consign'd to, &c. *And also* all the Produce, Profits, Proceeds, and Returns thereof, and all the Right and Interest of the said *A. B.* of, in, or to the said Premisses, or any Part thereof, *To have and to hold* all and singular the said Premisses hereby bargain'd and sold, or mention'd or intended to be hereby bargain'd and sold, and every Part and Parcel thereof, with the Appurtenances, unto the said *C. D.* his Executors, Administrators, and Assigns, as his and their own proper Goods and Chattels, and to his and their own proper Use and Behoof from henceforth for ever. *And whereas* *E. F.* of, &c. hath by Writing under his Hand, bearing Date, &c. last, promis'd to insure unto the said *A. B.* the Sum of, &c. on the said Ship, &c. from the Port of her Lading in, &c. to her Port of Discharge in, &c. in *Great Britain*; and the said Writing to be constru'd

as a Subscription on a Policy of Insurance, for the said Goods on Board the said Ship, with Abatements, &c. as in and by the same may appear. *Now this Indenture farther witnesseth,* That the said *A. B.* for the Considerations aforesaid, hath assign'd and set over, and by these Presents doth assign and set over unto the said *C. D.* his Executors, Administrators, and Assigns, the said Writing above-mention'd, and all Benefit and Advantage thereof, and all Monies to be recover'd thereupon. *Provided* always, and upon Condition, That if the said *A. B.* his Heirs, Executors, or Administrators, do, and shall well and truly pay, or cause to be paid unto the said *C. D.* his Executors, Administrators, or Assigns, the full Sum of, &c. without any Deduction for Taxes, Assessments, or any other Impositions whatsoever, either ordinary or extraordinary, according to the Condition of one Bond or Obligation, bearing equal Date herewith, wherein the said *A. B.* stands bound to the said *C. D.* in the penal Sum of, &c. That then, and from thenceforth, these Presents, and every Covenant, Clause, Matter, and Thing herein contain'd shall cease and be void, any Thing herein contain'd to the contrary thereof in any wise notwithstanding. *And* the said *A. B.* hath made, ordain'd, constituted, and appointed, and by these Presents, doth make, ordain, constitute, and appoint the said *C. D.* his Executors, Administrators, and Assigns, his true and lawful Attorney and Attornies, in the Name and Names of the said *A. B.* his Executors, Administrators, and Assigns, but to and for the Use of the said *C. D.* his Executors, Administrators, and Assigns, to ask, demand, sue for, recover, and receive of and from the said *E. F.* his Executors and Administrators, the said Sum by him insur'd, and agreed to be paid as aforesaid, towards Payment and Satisfaction of the said, &c. above-mention'd, and Acquittances and Discharges for him and them,

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in his and their Name and Names, to give for the same, he the said *A. B.* giving and hereby granting unto his said Attorney and Attornies, his full and absolute Power in the said Premisses. *And* the said *A. B.* for himself, his Executors, and Administrators, doth covenant, promise, and grant to and with the said *C. D.* his Executors, Administrators, and Assigns, That he the said *C. D.* shall, and lawfully may, from Time to Time, and at all Times from and after Default shall be made in Performance of the *Proviso* or Condition herein before contain'd, peaceably and quietly have, hold, use, occupy, possess, and enjoy, and receive and take to his and their own Use and Benefit, all and singular the said Goods, Chattels, and Premisses hereby bargain'd and sold, or mention'd or intended to be hereby bargain'd and sold, and every Part thereof, with the Appurtenances, without the Let, Trouble, Hindrance, Molestation, Interruption, or Denial of him the said *A. B.* his Executors, Administrators, or Assigns, or of or by any other Person or Persons whatsoever. *In Witness, &c.*

An English Inland Bill of Exchange.

250 l. *Sterling.*

London, 16 June, 1717.

AT ten Days Sight pay this my Bill of Exchange to Mr. *C. D.* or Order, the Sum of Two hundred and fifty Pounds *Sterling*, for the Value here receiv'd of Mr. *E. F.* and place it to Account, as *per* Advice, from

To Mr. *A. B.* Merchant in *Bristol.*

Yours, &c.

J. M.

A Bill

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A Bill of Exchange drawn on a Merchant abroad.

Exchange, 350 l. for
36 s. 8 d. Flemish per l.

London, 16 June,
1717.

AT twenty Days Sight pay this my first Bill of Exchange to Mr. C. D. Merchant, or Order, Three hundred and fifty Pounds *Sterling*, at thirty-six Shillings and eight Pence *Flemish per l.* for the Value here receiv'd of, &c. and put the same to Account, as *per Advice* from

To Mr. A. B. Merchant in *Amsterdam*.

Yours, &c.
J. M.

A Bill of Exchange drawn on a Merchant for the Account of a third Person.

Exchange, 500 Crowns
at, &c. per Crown.

London, 16 June,
1717.

AT Usance pay this my first Bill of Exchange to Mr. C. D. or Order, the Sum of Five hundred Crowns, at sixty *Sols Tournois per Crown*; and place it to the Account of Mr. E. F. of *Amsterdam*, Merchant, Value receiv'd of the said C. D. as *per Advice* from

To Mr. A. B.
Banker in *Paris*.

Yours, &c.
J. M.

A Protest of a Bill of Exchange.

First a Copy of the Bill is to be made; then the Person desiring the Protest, is to sign a Writing to this Effect: Know all Men *by these Presents, That I C. D. on, &c. last, at the usual Place of Abode of the said A. B. demanded Payment of the Bill of which the*

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above is a Copy, which the said A. B. did not pay, (or refused to accept) wherefore I the said C. D. do hereby protest the said Bill. Dated, &c. And then the Notary Publick draws the Protest in Manner following: Know all Men by these Presents, That at the Request of C. D. Merchant, this 16th Day of June, in the Tear of our Lord 1726. I S. B. Publick Notary, sworn, and admitted by Authority, did go to the Dwelling-house of Mr. A. B. upon whom the above-mention'd Bill of Exchange is drawn; and shew'd the Original unto the said A. B. demanding his Acceptance of the same; who answer'd me, That he could not accept the said Bill, by Reason, &c. Wherefore I the said Notary did protest, and do by these Presents protest as well against the said J. M. the Drawer, as against the said A. B. upon whom the Bill is drawn; as also against all other Persons, Indorsers, or others therein concern'd, for all Exchanges, Re-exchanges, Damages, and Interests whatsoever, in Presence of L. B. and A. M. call'd for Witnesses to this present Act done in my Office in, &c. the Day and Tear above-written.

C H A P. IV.

Of Customs, Impositions, and Subsidies, for Merchandize; Of Passage, Primage, Wharfage, Porterage, Ports for Loading and Unloading; Of Average and Contributions, &c. With Precedents of Bills of Entry, Debentures, Certificates, &c.

CUSTOMS, Subsidies, Tolls, Imposts, and other Duties upon Commodities imported or exported, are due to Princes and States by the general Laws

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Laws of Nations; they have a Right to them by their Prerogatives: And though our King cannot lay any Imposition on Merchandize without Consent of Parliament; yet, by his Prerogative, he may restrain Merchants from trading, especially with any Infidel Realm, State, or People, without his Royal Licence.

Our Historians tell us, that threescore Years before the Birth of our Saviour, when the *Jews* became Tributary to *Rome*, by the Conquests of *Pompey*, Officers were appointed by the *Romans* to collect such Custom-Money, or Tribute, as was exacted by the Senate; so early were Customs introduced.

In the Reign of King *Edw. 3.* the great Charter for free Traffick in this Kingdom was confirmed; and within a short Space afterwards, Commissions were granted for the Raising of a new Kind of Tallage; but upon Complaint, the Commissions were soon repeal'd, and the King gave his Promise never to assess any, but as in the Time of his Ancestors.

For the Definition of *Customs*, they are Duties certain and perpetual, payable to the King, as the Inheritance of his Crown, for Merchandizes transported from and beyond the Seas, from one Kingdom to another. They are due to the King of common Right, for these Reasons: For Leave to depart the Kingdom, and to carry Commodities out of it: For the Dominion which the King hath in the Sea: For that the King is Guardian of all the Ports and Havens within the Realm: And for Protection of Merchants, upon the Seas against Enemies, Pirates, &c.

Magna Custuma & *Antiqua* is payable out of Native Commodities, viz. Wool, Wool-fells, and Hides; and this is impos'd certain. The Custom, which is call'd *parva Custuma*, is a Custom or Duty payable by Merchant-Strangers, and was begun

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in the Time of King *Edward* the First, when it was granted that they and their Heirs should pay to the King and his Heirs, 3 *d.* in the Pound, &c. for all Merchandises exported and imported by them, &c. 1 *Eliz.* *Dyer fol.* 165.

The Stat. 14 *Ed.* 3. orders a Mark to be paid as Custom for a Sack of Wool. By 3 *H.* 6. *c.* 3. Custom-House Officers concealing Customs, are to forfeit treble Value. The 4 *H.* 8. appoints Collectors of the Subsidy of Cloth of Gold, Silver, Velvet, &c. And by 1 *Eliz.* *c.* 11. Goods for which Customs are to be paid, shall be laden and unladen at certain Ports, and Officers of the Customs must be acquainted with it: Also none shall enter Goods but Owners, &c. And Merchant-Strangers pay double Subsidy for Lead, Tin, and Woollen Cloth, according to the Rates and Values set in the general Book of Rates; and shall also pay double Custom for our native Manufactures of Wool; and for all other Goods they are rated to pay the Subsidy or Poundage of 3 *d.* in the Pound, beside the common Subsidy. *Chart. Mercat.*

And all Merchant-Strangers bringing into *England* any Sort of Wines, are to pay 30 *s.* per Tun, over and above the Rates which the Natives are oblig'd to pay, including 20 *s.* the Tun formerly paid, by the Name of *Southampton-Duties*, for all Wines of the Growth of the *Levant*; for which Sort of Wines the Stranger is also to pay to the Use of the Town of *Southampton*, for every Butt or Pipe, ten Shillings. Aliens are likewise to pay the ancient Duty of Buttlage, which is 2 *s.* per Tun. And breaking of the Bulk is that which intitles the King to the Duty; for if a Merchant imports Wines to the Number of twenty or thirty Tuns, and he unlades but Part, as five or ten Tuns, yet the King shall have the intire *Prisage*. 1 *Eliz.*

Subsidy

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Subsidy is a Duty payable for Merchandises exported and imported, granted by Act of Parliament for the Life of the King. *Tunnage* is a Subsidy out of Wines of all Sorts; and *Poundage* is a Subsidy granted out of all Commodities exported or imported, except Wines and ancient Staple Commodities; and is the twentieth Part of the Merchandise, Imposts or Duties payable for Merchandises, rated and assess'd by Parliament. Stat. 12 Car. 2.

Every *English* Man shall pay for every Tun of Beer to be exported in Shipping, *English*-built, 2*s.* in Money; and for every Tun of Beer exported in foreign Shipping 6*s.* Poundage.

And for every short Cloth, containing not above 28 Yards in Length, and being in Weight not above 64 Pounds, either white or colour'd, shipp'd, and carried out of the Kingdom, 3*s.* 4*d.* the Subsidy, being after the Rate of a Half-penny and Half a Farthing the Pound-Weight. And so after that Rate for all other Sorts of Cloths of greater Length and Weight. And Strangers are to pay 6*s.* 8*d.* for every short Cloth, besides the old Duty of 1*s.* 2*d.*

By the *Book of Rates*, annex'd to the Act of Tunnage and Poundage 5*l.* *per Cent.* is allowed to the Merchants out of the Subsidy for Poundage, and 10*l.* more for ready Money.

If any Goods shall be carried out of this Realm, which are liable to the Payment of Custom and Subsidy, and are omitted in the Book of Rates, or are not used to be imported or exported, by Reason of the great Diversity in Respect to the Value of the Goods; in such Case, the Collector for the Time being, shall and may levy the said Custom, Subsidy, and Poundage, according to the Value and Price of such Goods, to be delivered in upon Oath by the Merchant in his Presence, or in the Presence of the Comptroller and Surveyor, or any two of them.

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There is a Duty on Vinegar, Perry, Rape, Cyder, and Cyder eager, imported from foreign Parts by *English* Merchants of 6*l.* 10*s.* *per* Tun; and if by Strangers, then but 6*l.* And if they shall export those Liquors, then 3*l.* 10*s.* *per* Tun shall be re-paid to the *English*, and 4*l.* 15*s.* to the Stranger. 14 *Car.* 2. *c.* 11.

By Stat. 18 *Car.* 2. *c.* 5. there is imposed on Wines, Vinegar, Cyder, and Beer, 10*s.* *per* Tun; and on Brandy and Strong Waters 20*s.* *per* Tun. The Goods are liable to a Forfeiture on Non-payment of the Duty; but the same is to be re-paid, if the Goods are transported within one Year. The Money arising on this Duty, is to be paid at the Custom-House to the Collectors and Officers who are obliged to keep the same apart from all other Money, and to remit it Quarterly into the Exchequer.

And there was an Imposition of 12*l.* *per* Tun on *Spanish* Wines, and 8*l.* *per* Tun on *French* Wines and Vinegar, which was but temporary. 22 *Car.* 2. *c.* 3.

By Stat. 14 *Car.* 2. *c.* 11. Logwood may be imported, paying 5*l.* *per* Tun Duty; and in Case of Exportation, then is to be re-paid 4*l.* *per* Tun. Wines of all Sorts are to pay Aliens Duties. And there is a farther Imposition, called *Aliens Custom*, for all Fish, Oil, Blubber, Whale-Bone, or Whale-Fins, not being caught in Vessels belonging to *English*; and Custom and Impost to be paid for several Sorts of salted or dry'd Fish, not imported in Ships *English*-built; and an Excise or Impost upon foreign Beer, Ale, &c. Brandy and Strong Waters. 12 *Car.* 2. *c.* 18, 23. 15 *Car.* 2. *c.* 7. 22 *Car.* 2. *c.* 4.

And if any of those Goods are landed before the Duties are fully paid, and Warrants sign'd, and without the Presence of an Officer, they are liable to Forfeiture, one Half whereof to the Informer. 15 *Car.* 2. *c.* 11.

Coals

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Coals transported in *English* Shipping and Navigation for his Majesty's Plantations, in lieu of all Customs shall pay only 1 s. 8 d. for every Chaldron of *Newcastle* Measure; and for every Chaldron of *London* Measure, 1 s. But Security must be given for landing the Coals accordingly. 15 Car. 2. c. 7.

All Goods under the Value of 5 l. in the Book of Rates, paying Subsidy, not exceeding the Sum of 5 s. shall pass without Payment of Fees. Fish taken by *English* in *English* Vessels, Inwards or Outwards, all along the Coast, shall pay no Fee. Post-Entries Inward are to pass without Fee, when under 5 s. if above 5 s. and under 40 s. then 6 d. but if the Custom exceed 40 s. then you are to pay full Fees. And when Goods are short enter'd above 10 s. Custom, the whole Custom shall be paid. 14 Car. 2.

By Stat. 1 Jac. 2. several Duties and Imposts are granted upon Wines and Vinegar, and also upon Tobacco and Sugars imported.

By Stat. 1 W. & M. a Duty is granted on Tea, Coffee, and Chocolate imported; for every Hundred Weight of Coffee 5 l. 12 s. for every Hundred Weight of Cocoa-Nuts 8 l. 8 s. upon every Pound Weight of Tea 5 s. &c.

There were several Duties impos'd on Callicoes, Linen, wrought Silks, and other Manufactures of *India* and *China*, imported; upon Deal, Timber, and other Wood, upon Hempseed, Hops, Pepper, Grocery-Wares and Drugs, Iron, Yarn, Flax, or Hemp, Glass, Molosses, Tallow, Pot-Ashes, Cordage, Olive-Oil, Paper, Liquorice, Soap, Earthen Ware, Starch, Allom, Brimstone, Tin, &c. by Stat. 2 W. & M. c. 4.

And by Stat. 11 & 12 W. 3. c. 10. all wrought Silks, Bengals, and Stuffs of the Manufacture of *Persia*, *China*, or *India*, and all Callicoes, &c. imported, are forbid to be worn in *England*, and are to be exported again. Such Goods, not enter'd

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rer'd or mix'd with others for Sale, shall be forfeited, and 500*l*.

There are several Duties granted on rough Jewels and precious Stones, Amber-Beads, Tapestry, Carpets, Lustrings, Hides, Skins, and a great Number of small Things imported. By Stat. 4 & 5 *W. & M. c. 5*.

By Stat. 6 & 7 *W. 3. c. 7*. a Duty is granted on Nutmegs, Cinamon, Cloves, Mace, &c.

25*l*. per Tun is granted for *French* Wines imported. For *French* Brandy of single Proof, 30*l*. of double Proof 6*l*. for every Tun of Vinegar 15*l*. and for all other Goods imported from *France*, 25 per Cent. *ad Valorem*. By Stat. 7 & 8 *W. 3. c. 20*.

By Stat. 8 & 9 *W. 3. c. 24*. additional Duties on *French* Wines are granted; and also on Wines from the *Levant*, *Spain*, and *Portugal*.

And by Stat. 9 & 10 *W. 3. c. 23*. additional Duties of Tunnage and Poundage are made payable for Wines, Goods, and Merchandises imported.

These additional Duties of Tunnage and Poundage are continued by Stat. 2 *Annæ c. 9*. And by Stat. 3 *Annæ c. 5*. a farther Subsidy is granted on Wines and Merchandises imported.

By Stat. 6 *Annæ c. 19*. for every Tun of Wine of the Product of any the Dominions under the *French* King, which during the War, should be seized and condemned as Prize, or be unlawfully imported, 25*l*. per Tun was granted.

By Stat. 7 *Annæ c. 8*. Jesuits Bark, Sarsaparilla, Balsam of *Tolu* and *Peru*, and all other Drugs of *America*, may be imported from any of the Plantations, in any Ships regularly mann'd and navigated, as if they were directly imported from the Place of their Growth.

Any Person entering a Claim in a Court where prohibited or uncustom'd Goods are prosecuted, must give Security in the Penalty of 30*l*. to

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answer and pay the Costs occasion'd by such Claim; and in Default thereof, the Goods shall be recover'd. 8 *Annæ c. 7.*

By Stat. 8 *Annæ c. 9.* a Duty of 4 *d. per Pound* is impos'd on Wax-Candles imported; and for all other Candles imported, one Half-penny *per Pound*, to be paid by the Importers on Land ng. And if Candles shall be landed before Entry made at the Custom-House, &c. and before the Duty is paid, or without a Warrant for the Lading, sign'd by the proper Officer of the Customs, they shall be forfeited, and may be seised or recovered of the Importer or Proprietor, one Moiety to the Crown, the other to the Prosecutor.

Candles for which Duty have been paid, may be exported, the Person giving Security that the same shall not be re-landed in any Part of *Great Britain*. If they are afterwards re-landed, not only the Penalty of the Bond shall be levy'd, but the Candles forfeited, or the Value thereof. By Stat. 9 *Annæ c. 21.* the Duty on Candles is made perpetual.

If Tobacco, or any other foreign Goods, specified in any Certificate, (whereupon any *Drawback* is to be made, or any *Debenture* is to be made forth for any *Drawback*) shall not be really exported, such Goods shall be forfeited. 9 *Annæ c. 21.* no *Drawback* shall be allowed in any Vessel under twenty Tuns.

Leather may be exported, paying 12 *d. per Hundred Duty*. Stat. 9 *Annæ c. 6.* Coals of *Wales*, or of the *West of England*, exported to *Ireland*, shall pay 1 *s. per Chaldron*; and to the Plantations, 2 *s. per Chaldron*. And for every Chaldron *Newcastle-Measure*, shipp'd in foreign Bottoms, 12 *s.* in *English Bottoms* 3 *s.* Coals sold by Weight, and shipp'd to be exported for *Ireland*, 8 *d. per Tun*; shipp'd for the Plantations, 1 *s. 4 d. per Tun*.

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Tun. Coals imported from foreign Parts, 2 s. *per* Tun, or 3 s. *per* Chaldron.

By Stat. 10 *Annæ* c. 19. a Duty of 2 d. *per* Pound is granted upon all Soap imported, over and above all other Duties.

By this Act there is likewise a Duty upon all Paper imported, from 1 s. for the *German Fool's Cap*, to 16 s. *per* Ream for the Paper called *Atlas fine*; (and there is an additional Duty by Stat. 12 *Annæ*) 5 s. for every Hundred Weight of *Paste-boards*, *Mill-boards*, &c. for white and brown Paper, 20 *per Cent.* and for all Books, Prints, and Maps imported, 30 l. *per Cent. ad Valorem*.

All chequer'd and strip'd Linens, and all Linens printed, painted, &c. imported from foreign Parts, shall pay 15 l. for every 100 l. Value.

By 10 *Annæ* c. 26. there is a Duty laid upon all Leather and Skins imported: And an additional Duty of 2 d. *per* Pound on Starch imported. And also 12 d. *per* Pound is granted for Coffee imported, 2 s. for Tea imported by the *East-India Company*, and 5 s. from any other Place: And for all Drugs imported, a Duty of 20 l. *per Cent. ad valorem*. For gilt Wire imported, 1 s. for every Ounce, and for Silver Wire 9 d. *per* Ounce.

The 1 *Geo.* grants the Custom-Duties of Tonnage and Poundage, to his Majesty for Life, as they had been granted by former Statutes, to King *Charles*, King *William*, and Queen *Anne*.

By a late Act to prevent clandestine Running of Goods, foreign Brandy, &c. in Vessels under forty Tuns Burthen, shall be forfeited, together with the Vessels. And foreign Goods, taken in at Sea by any Coasting Vessel, &c. shall be forfeited, and treble Value, &c. Large Boats and Barges made without Licence in the Counties of *Middlesex*, *Surry*, &c. shall be forfeited. And Buyers and Receivers of Run-Goods, are to forfeit 20 l. Also Persons found passing with foreign Goods, landed without

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without Entry, are adjudged Runners of Goods, &c. And being more than five in Number in Company, having offensive Arms, and resisting the Officers of the Customs, shall be Guilty of Felony, and be transported, &c. Stat. 5 Geo. c. 11. and 8 Geo. c. 18.

And Officers of Men of War, receiving Goods and Merchandise on Board to trade with, shall forfeit their Commissions and the Value of the Goods. *Ibid.*

By 8 Geo. c. 15. Customs on Drugs, Pepper, and Spices, are taken off and reduced, and Allowances made on exporting Silks, Stuffs, &c.

See more of Customs under *Masters of Ships*.

Of Allowances to Merchants in Respect of the Customs.

Every Merchant hath free Liberty to break Bulk in any Port allowed by Law, and to pay Custom and Subsidy for no more than he shall enter and land; provided that the Master or Purser of the Ship, hath first made a Declaration upon Oath, before two Officers of the Port, of the true Contents of his Ship's Lading.

All foreign Goods and Merchandises (except Wines, Currans, and wrought Silks imported) may be again exported within twelve Months; and the Merchant-Importer shall have an Allowance, and be re-paid by the Officer which receiv'd the same, one Moiety of the Subsidy which was paid on the Importation of such Goods; producing a Certificate from the Officers of the Entry, and Payment of the Custom and Subsidy. 1 H. 7.

And by Stat. 14 Car. 2. for Currans exported, after duly enter'd, and the Subsidy and Custom Inwards paid, there shall be re-paid all the Custom

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and Subsidy; except 1 s. 6 d. for every hundred Weight.

If a Merchant shall export any Sort of Wines, which formerly have paid all Duties of Tunnage Inwards, he shall have allowed him all the Duties of Tunnage paid Inward, except 20 s. *per* Tun to a Native, and 25 s. *per* Tun to a Stranger.

Goods imported for which Duties are paid, after they have been kept here the Space of twelve Months without Sale, may be shipp'd to any Parts beyond the Seas, without paying Subsidy Outwards.

And *Spanish* or other foreign Wool, may be exported in *English* Shipping, by Stat. 12, 14 *Car.* 2. but not otherwise, on Pain of Confiscation.

By 12 *Car.* 2. Wheat, Barley, and other Grain, Beef, Pork, Butter, Cheese, &c. may be exported in a Time of Plenty, when sold at such and such Prices. And the 1 *W. & M. c.* 12. allows the Transportation of Corn, when Barley is 24 s. the Quarter, Rye 32 s. Wheat 48 s. or under; and the Transporters to receive an Allowance of so much *per* Quarter from the Collector of the Customs; and pay no Customs. But this is alter'd by 8 *Annæ*, &c. which prohibits the Transportation of Corn to foreign Parts.

If any Wines shall prove damaged or corrupt, and be fit for nothing but Distillation, or to make Vinegar, then the Owners shall have an Abatement made them in the Subsidy, according to the Damage receiv'd.

If Tobacco, or other Goods or Merchandises, brought into this Kingdom, receive any Damage by Salt Water or otherwise, the principal Officers of the Custom-House, or any two of them, whereof the Collector to be one, are to chuse two indifferent Merchants, acquainted with the Value of the Goods damaged, to inspect the same, and declare upon Oath, how much they are lessen'd in their
true

true Value ; and thereupon the Officers are to make a proportionable Abatement of the Subsidy unto the Merchant or Owner. And by Stat. 12 *Annæ*, an Allowance of 8*l. per Cent.* is to be made the Merchant at the Importation, out of all the Duties payable on Tobacco, instead of the former Allowances: And 10*l. per Cent.* for prompt Payment, in lieu of all former Discounts.

There are Allowances made to Merchants for defective and damag'd Goods imported of 5 *per Cent.* and 12 *per Cent.* on all Wines, to be allowed upon Debentures ; but if they ship out less than is in the Certificate, then the Goods therein mention'd, or the Value thereof, shall be forfeited, and the Owner or Merchant shall lose the Benefit of receiving back any of the Subsidy: And Goods shipp'd out are not to be landed again in *England*, on Pain of Forfeiture.

Every Merchant bringing or importing into this Kingdom any Sorts of Wines by Way of Merchandise, and having made due Entries of the same in the Custom-House, shall be allowed 12 *per Cent.* for *Leakage*. There is likewise an Allowance, or Abatement for Goods and Merchandises, called Tare and Trett; the first is the Weight of the Cask or Bale, or Covering, wherein Goods are pack'd ; and the other is a Consideration allow'd in the Weight, for emptying and re-selling the Goods.

Where Goods are conveyed secretly into Ships, and carried away without paying the Subsidy and Duties, the Owners and Proprietors forfeit double the Value. And Ships of War may be entered and searched for prohibited and uncustom'd Goods ; and if any are there found, the Officers may bring them ashore to the King's Warehouses; Custom-Officers may be also left on Board, to look after such Goods ; and if any of them are unladen or imbezil'd, there will ensue a Forfeiture of 100*l.*
And

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And the like Forfeiture if Goods are concealed on Ship-board, after the Ship is clear'd. 14 Car. 2. c. 11.

A Searcher at *Gravesend* may not detain any Ship there, on Pretence of Searching, above three Tides; and in the Out-Ports, not above one Tide, without just and reasonable Cause, on Pain of forfeiting his Office, and rendering Damage to the Merchant.

Every Merchant making an Entry of Goods, either Inwards or Outwards, is to be dispatched in such Order as he comes. And if any Officer, Clerk, or other Person, belonging to any Custom-House, shall exact, require, or receive any other, or greater Fee for Entries, or otherwise, touching the Shipping or Unshipping of any Goods, Wares, or Merchandises of any Merchant or other Person whatsoever, than such as are or shall be establish'd by Act of Parliament, he shall forfeit his Office, and be for ever incapable of any Place in the Custom-House; by an Order made in the Reign of *Charles II.*

Of taking up and entring Goods at the Custom-House.

When the Merchandise is pack'd up in Bales, Chests, Casks, &c. according to its Nature, and mark'd, and the Freight agreed for, then is made forth the *Bills of Entry*, of which there are to be several, one whereof in Words at length, which is to pass; but in the rest the Quantities may be expressed in Figures. These Bills are entered in divers Books by the Clerks attending; and if several Sorts of Goods are exported at once, some whereof are free, but others pay Custom: There must be two Entries made, one for the Goods that pay no Custom

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from, and the other for those that do, and be two *Cockets*.

After the Bill of Entry is made, the Customs and Fees for Entry are to be paid, and then the *Cocket* is to be procured, writ on a small Piece of Parchment; on the Backside of which is writ down the Mark, Numbers, and Quantity of Goods expressed therein: And then on a Piece of clean Paper is transcribed the Bill of Entry, whereupon a *shipping Bill* will be made out; on the Back whereof is likewise writ the Marks, Numbers, and Contents, as on the *Cocket*. The *shipping Bill* and *Cocket* thus indors'd, are to be delivered to the Searcher at the Waterside, when the Goods are shipp'd off; and the *Cocket* is to remain in the Searcher's Office till the Master of the Ship is ready to sail, and then it is delivered to him.

If the Merchant has no Servant to enter his Goods, the Clerks in the Long Room in the Custom-House will do it for 6*d.* where the Bill of Entry is made; or they will make the Bill and pass the Entry both for 1*s.* The Fees for Entry are 2*s.* 6*d.* for a Freeman of *London*; one not a Freeman 3*s.* 2*d.* an Alien 3*s.* 10*d.* a Navigator 4*s.* 2*d.*

When Goods are exported by *Certificate*, viz. foreign Goods formerly imported (which intitles the Exporter to a Drawback of Part of the Customs paid on Importation). A *Deventure* is to be made out, and Oath made of the Goods shipp'd, on the Backside thereof; and then is to be procur'd a *Certificate Cocket*: To obtain which, must be taken out of the Books of the Importer the Day when the Custom inward was paid, and by whom; and that is to be carried to the Long Room in the Custom-House, and delivered to the Clerk of the Comptroller of the Subsidy inward and outward (with an Account of the Quantity of Goods you would export) who will search the

K.

Books

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Books, and finding the Custom paid inward, make out the *Certificate*, which is sign'd by the Collector or Controller of the Customs, that those Goods have paid Custom inwards; and then the *Cocket* is granted for shipping the Goods, and the Drawback allowed.

To enter Goods inward at the Custom-House, the Ship being safely arrived which has the Goods on Board, the Merchant is to search the Entry-Book at the Custom-House, which lies publick in the Long Room, where he will find the Name of the Ship, Captain, and Land-Waiters, appointed to attend the unlading, and at what Key the Goods will be landed. Finding the Ship entered, the Goods are to be also entered, by Bills of Entry; whereof there must be several, one in Words at Length for the Warrant, which is to be signed by the Party in whose Name the Goods are entered, and the Mark must be inserted in the Margin; all which being done, and the Customs and entering Fee paid, the Entry will pass, and the Land-Waiters have a *Warrant* for the Landing of the Goods.

As before Goods are shipp'd, while they lie on the Wharf, the Searchers are to view the Parcels, to see that they agree with the Cocket: So when Goods are imported, the Land-Waiters must examine that they agree with the Custom-House Warrant, at the Time of unlading, before they are removed.

Where several Persons are concerned in a Ship, there is usually a *Husband of the Ship*, chosen by the Owners, to take an Account of every Merchant's Goods, and pay the Duties, &c.

Ports for Loading and Unloading.

The Merchants trading into the Port of *London*, have free Liberty to lade and unlade their Goods at any lawful *Keys* and Places of Shipping; and to lade Goods between the Tower of *London* and *London-Bridge*, between Sun-rising and Sun-setting, from the Tenth Day of *September* to the Tenth Day of *March*; and between the Hours of Six of the Clock in the Morning and Six of the Clock in the Evening, from the Tenth Day of *March* to the Tenth Day of *September*, giving Notice thereof to the respective Officers appointed to attend the lading and unlading of Goods; and if such Officers refuse to be present, they shall forfeit for every Default $\$1$. one Moiety to the King, the other to the Prosecutor.

The Ports we have in *England*, are the following; *London*, *Ipswich*, *Tarmouth*, *Lynn*, *Boston*, *Hull*, *Newcastle*, *Berwick*, *Carlisle*, *Chester*, *Milford*, *Cardiffe*, *Gloucester*, *Bristol*, *Bridgewater*, *Plymouth*, *Exeter*, *Poole*, *Southampton*, *Chichester*, and *Sandwich*. All these Ports are *infra Corpus Comitatus*, and the Admiralty cannot hold Jurisdiction of any Thing done in them. *Holland's Case* 30 H. 6.

To these Ports there are belonging a great Number of Creeks or Places where commonly Officers are or have been plac'd, by Way of Prevention of Frauds in the Customs, (not out of Duty or Right of Attendance) for they are not lawful Places of Exportation, or Importation, without particular Licence or Sufferance from the Port, or Member under which they are plac'd.

The lawful *Keys*, *Wharfs*, and other Places for the lading or landing of Goods, belonging to the Port of *London*, are *Brewer's Key*, *Chester's Key*,

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Wool-Dock, Porter's Key, Custom-House Key, Bear Key, Sabb's Dock, Wiggon's Key, Young's Key, Ralph's Key, Dice Key, Smart's Key, Lyon Key, Bottolph Wharf, Hammon's Key, Ganut's Key, Cock's Key, and the Fresh Wharf, some landing Stairs excepted. *Billingsgate* is a common open Place for the landing or bringing in of Fish, Salt, Victuals, or Fuel of all Sorts, and all native Materials for Building; and for Fruit, and carrying out of the same; but for no other Wares or Merchandise. And *Bridge-House* in *Southwark* is allowed a Place convenient for landing of any Kind of Corn, bought or provided for Provision or Victualling of the City of *London*; (but not upon any private or particular Person's Account) and for no other Goods or Merchandise. Deal-Boards, Baulks, and all Sorts of Masts, and great Timber, may be unshipp'd and laid on Land, at any Place between *Limehouse* and *Westminster*, the Owner first paying or compounding for the Customs, and declaring at what Place he will land them; but he is to unlade them in the Presence of an Officer of the Customs, and to obtain a Licence, otherwise he will incur a Forfeiture.

Of Wharfage, Scavage, Package, Porterage, &c.

Wharfage is Money paid for landing of Wines at a Wharf, or for Shipping or Taking in Goods into a Boat or Barge. Wharfingers commonly keep Boats or Lighters of their own, for the carrying out and bringing in of Goods; in which, if a Loss or Detriment happens, they may in some Cases be made liable.

The *Wharfingers* have several Managers over them; a Committee to redress Grievances relating

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to Merchants, &c. and as to the Rates of Wharfage paid by Merchants in general, it is computed at the Rate of 12 *d.* per Tun, whether outward or inward, except for Sugars, &c. from the *West-Indies*, which pay 2 *s.* per Tun, four Hogsheds being reckon'd but a Tun: *Cranage* is included in the 12 *d.* per Tun Wharfage; and the *Lighterage* is Half as much as the Wharfage. The Wharfage of all Goods not exceeding 5 *s.* is to be paid down on the Wharf, at the taking up of the Goods; and if not, the Wharfinger may detain the Goods till Payment.

Wharfingers or Keepers of Keys, &c. are not to suffer uncustomed or prohibited Goods to be Water-born or taken on Land, without an Officer of the Customs being present, under the Penalty of 100 *l.* Stat. 14 Car. 2.

Primage is a Duty to the Master and Mariners; to the Master for the Use of his Cables and Ropes to discharge the Goods; and to the Mariners, for loading and unloading of the Ship or Vessel; it is commonly about 12 *d.* per Tun.

Scavage is an ancient Toll or Custom, exacted by Mayors, Sheriffs, &c. of Merchant-Strangers, for Wares shewed or offered to Sale within their Precincts, which are prohibited by the Stat. 19 H. 7. c. 8. And the City of *London* still retains the Custom. It consists there of two Sorts, that which is payable by Denizens, and that which is required of Aliens. The Lord Chancellor, Treasurer, President of the Council, Privy-Seal, Steward, and two Justices of the King's Bench and Common Pleas, ascertain these Duties, which are on Goods Inwards and Outwards, and order Tables to be made mentioning the Particulars. 22 H. 8. c. 8.

Package is a Duty likewise set and rated in a Table taken of the several Commodities therein mentioned. All Goods not mentioned in the Ta-

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ble, are to pay for Package Duties, after the Rate of one Penny in the Pound, according as they are express'd or valu'd in his Majesty's Books of Rates; and all others, not therein express'd, shall pay at the same Rate, according to their true Value. For every Entry made in the Packer's Book for Bills outward, is paid 1 s.

Porterage is paid to those which attend the Water-side, and belong to the Package-Office; and these Porters have Tables ascertaining their Dues for landing of Strangers Goods, and for shipping out their Goods: And Goods not mention'd in the Table, are to pay *Porterage Duties* in like Manner as for other Goods of like Bulk, therein mention'd.

There are four Sorts of *Porters* for the Service of Merchants, &c. The Company's Porters, Ticket-Porters, Tackle-Porters, and Fellowship-Porters. The Company's Porters land and ship off all Goods and Merchandise exported or imported to or from the *Baltick Sea, Holland, France, Spain, Italy, Germany, Turkey, &c.* The Ticket-Porters are all Freemen, and it is their Business to land and ship off Goods exported or imported from all Parts of *America, &c.* The Tackle-Porters are such of the Ticket-Porters, as are furnished with Weights, Scales, &c. and their Business is to weigh Goods. The Fellowship Porters land or ship off Goods or Merchandise, as are measurable by Dry Measure, such as Corn, Salt, &c.

Not only the Rates of Porters are ascertained, but those of *Carmen*, for the carrying of Goods to and from the Water-side; and if they take more than those Rates, they may be committed to Prison by the Lord-Mayor, &c. And *Carmen* standing empty, refusing to load Goods on Demand of the Merchant, &c. shall be liable to a Penalty of 5 s. They are not to carry above twenty hundred Weight.

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Weight at one Time, under the like Penalty; and are to be licensed, &c.

There is an ancient Duty called *Water-Bailage*, received by the City of *London*, for all Goods and Merchandises imported, as well from any Port within the Realm to the Port of *London*, as from any other Port of the Realm to the same; and likewise a Duty for all Goods as shall be exported from the Port of *London* to any other Port within the Realm, and also abroad.

In respect to *Passage*, Rivers, or any Part of the Sea, when they come into the Dominion of any Nation or People, ought to be open to those that have need of *Passage* for just Causes; but though the Sea is free and open for Traders, yet, nevertheless the Passengers are subject to such Restrictions, Laws, and Ordinances, as the Sovereign Princes shall make in those Places where they have an Accession of Property or Sovereignty. And Tribute may be lawfully imposed for whatsoever Burthens have Relation to Merchandise. But Poll-Money, put on the Inhabitants to sustain the Charge of the Commonwealth, may not be exacted from Passengers. *Strabo, lib. 8.*

Petty Average is a small Duty which Merchants pay to the Masters when they only take Tunnage, over and above the Freight; the which is paid as a Recompence or Gratuity for the Master's Care over the Lading; and in the Bills of Lading, there is Mention, after Freight, together with *Primage and Average accustom'd*. And some conceive that the Average mention'd in the Bills, is that which is appointed as a Contribution for Losses.

Of Averages and Contributions.

By the ancient Laws and Customs of the Sea, in a Storm, when there is an extream Necessity, the Goods, Wares, Guns, or whatsoever else is aboard the Ship, may, by consulting the Mariners, be thrown over-board by the Master, for the Preservation of the Ship; and if the Storm and Danger continues, the Master may command the Casting over-board what Goods he shall think fit, for the Safety of the Rest: And Goods coming from infected Places, may be cast over-board without such Danger. 49 *Ed. 3. fol. 15.*

If there be a Supercargo aboard, Request ought to be made to him to make a Beginning; but if he refuses, the Mariners may proceed without him: And if the Ship happens to out-weather the Storm, and arrives in Safety at her Port of Discharge, the Master and the greatest Part of the Crew are to make Oath, that the Goods were cast over-board for no other Cause but purely for the Safety of the Ship. *Leg. Oleron.*

If a Ship's Gear or Apparel be lost by Storm, the same is not within the Average, but is accounted like unto a Workman breaking or spoiling his Tools; (except in the Avoiding of a Danger, as the Flinging the Mast over-board, &c.) If, to avoid the Danger of the Storm, the Master cuts down the Masts and Sails, which, falling into the Sea, are lost; this Damage is to be made Good by the Ship and Lading *pro rata*; but it is otherwise if the Case happens by the Storm, or other Casualties. *Leg. Rhod.*

Where Goods are laden above the Overlope, or forbidden Goods are put aboard; and such Goods happen to be the Cause of any Danger or Damage, the Master shall bear the Loss; and he may also
be

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be prosecuted for the same. And for Goods brought secretly into the Ship, without the Knowledge of the Master or Purser, if ejected, no Contribution shall be had.

If a Master of a Ship lets out his Vessel to Freight, then receives his Compliment, and afterwards takes in Goods without Leave of the Freighters, and a Storm arises at Sea, and Part of the Freighters Goods are cast over-board, the remaining Goods are not subject to the Average; but the Master shall make good the Loss out of his own Purse.

If a Ship be taken at Sea, and the Master, to redeem the Ship and Lading out of the Enemies Hands, engages to pay a Sum of Money, as a Security for the Performance whereof he puts himself in the Custody of the Captor; in this Case he is to be redeem'd at the Costs and Charges of the Ship and Lading, according to every Man's Interest. So where a Pirate takes Part of the Goods, to spare the Rest, Contribution must be paid. *Moor. fol. 297. Hicks versus Pilkington.*

But if a Pirate takes, by Violence, Part of the Goods, the Rest are not subject to Average, unless the Merchant hath made an Agreement to pay it in such a Case. Tho' if Part of the Goods are taken by an Enemy, or by Letters of Marque and Reprizal, the Rest shall be liable to Average.

Average, by the Law-Merchant, is that Contribution which Merchants and others proportionably make towards Losses receiv'd, where Goods are cast into the Sea for the Safeguard of the Ship, or of the Goods and Lives of them in the Ship, during the Tempest; and it is call'd Contribution, because it is proportion'd after the Rate of every Man's Average or Goods aboard.

The Master must take Care that Things of the least Value and greatest Weight be flung over-board. And when the Ship arrives in Safety, the Remainder
of

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of the Goods that have obtain'd Safety, whether they pay Freight or not, must come into the Average; and Money, Jewels, and Cloaths, (except such which are born upon a Man's Body, Victuals, and the like, put on Ship-board to be spent) are not exempted. *Leg. Oleron.*

If there happens to be Plate, Jewels, &c. in a Trunk, Chest, or Bale, at the Time of the Ejection of the Goods, and there is a Supercargo aboard, he ought to give Notice, by Discovering of the same to the Master or Mariners, otherwise he shall be answer'd in the Contribution no more than the bare extrinseck Value appears to be; but the Assurers will not come off so easy.

If Goods happen to be cast over-board before Half the Voyage is perform'd, in such Case they are commonly estimated at the Price they cost; but if they are ejected afterwards, then at the Price as the Rest, or the like, shall be sold for at the Port where she arrives; and this Estimate is to be made before the Ship is discharg'd.

All the Parties interested are to bear the Loss by a general Contribution; and a Master and Purser of a Ship shall contribute for the Preservation of the Ship; also the Passengers, for such Wares as they have in the Ship, be they precious Stones, Pearls, or the like: And it is said, that as to Passengers which have no Wares or Goods in the Ship, (in Regard they are a Burden to the Ship) an Estimate shall be made of their Apparel, Rings, Jewels, &c. towards a Contribution for the Loss.

The Goods lost are to be valu'd, and the Goods sav'd to be estimated; which being known, a proportionable Value shall be contributed by the Goods sav'd, towards Reparation of the Goods cast over-board. And if, in the Casting over or Lightning of the Ship, any of the remaining Goods are spoil'd,

or

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or receive Injury, the same must come into the Contribution for the Damage receiv'd.

Though to prevent the Ruin and Destruction of the Persons aboard, there seems to be a Necessity to subject the Lading to Ejection; yet some Lading is excepted in some Cases, as Cannon, and other Instruments or Provisions consign'd to relieve a City in Time of War, ought not to be flung over-board; for in this Case, the Law imposeth on every Subject, that he prefer the urgent Service of the State to the Safety of his Person. *Bacon. Max. fol. 17.*

As the Common Law looks upon the Goods and Cargo as a Pawn or Pledge for the Freight, so the Marine Law looks upon them likewise as a Security to answer the Average and Contribution; and if Contribution shall be settled, and the Merchant will not agree, the Master may detain the Lading 'till the Contribution is satisfy'd.

If a Lighter, or the Ship's Boat, into which Part of a Ship's Cargo is unladen, for the Lighting of the Ship, shall perish, and the Ship be preserv'd, Contribution is to be made; but if the Ship happens to be cast away, and the Lighter, Boat, or Skiff, to be preserv'd, there no Contribution or Average is recoverable. For no Contribution may be had, but where the Ship arrives in Safety. *Sir Francis Moor, fol. 297.*

If Goods are cast over-board, and afterwards, by good Fortune, they are recover'd, Contribution ceases; saving for so much as the Goods are damnify'd, and made worse, by Reason of such Ejection.

A Ship is indiscreetly stow'd with Goods, or over-loaden, and an Ejection happens; in this Case, by the Law Marine, no Contribution shall be made, but Satisfaction is to be answer'd by the Ship-Master, or Owners.

If

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If Corn, or any other Grain or Commodity, subject to Waste, be laid in an Heap by divers Persons in one Ship, without Distinction, and the Master delivers to some of them their due Share or Quantity; but before the Rest have their Shares deliver'd, the remaining Corn, &c. washes away, or is lost, those that had the Fortune to receive their Shares shall enjoy them, without any Contribution to the other Partners. *Lex Mercat.* 110.

In Case one Ship happens to strike against another, whereby Damage is receiv'd, if there be no Fault or Miscarriage in either, an equal Division is to be made of the Damage, it happening by Casualty; but if there be a Fault or Miscarriage on either Side, there shall be no Contribution, but a full Satisfaction is to be made the Merchant injur'd: And if it be in the Night, to intitle this, it is good to hang out a Light, or to give Notice by Calling out.

Passengers may cast Goods over-board out of a Ferry-Boat, in Case of a Tempest, for Preservation of their Lives, and the Owners shall have no Remedy; but if the Ferry-man surcharge the Boat with Goods, and they are cast over-board, the Owner of the Goods shall have his Remedy against the Ferry-man. 12 *Rep.* 63. 2 *Bulst.* 280.

Goods are shipp'd on Board in *England*, and a Tempest ariseth, the Passengers, for saving their Lives, cast them over-board; and another *English* Ship takes them up, the Owner brings Trover, it lies, because the Goods were deliver'd upon the Land. *Caps versus Tooker.* 1 *Roll. Rep.* 498.

P R E C E D E N T S.

A Bill of Entry.

In the Adventure of the George, from, &c. A. B.

N^o 1. *Florence Wines, 20 Chests, &c.*

N^o 2. *Bales of, &c. Silk, &c.*

N^o 3. *&c.*

A Debenture for Custom Draw-back.

A. *B. of, &c. did enter with us this Day, &c. in the Ship call'd, &c. C. D. Master, for, &c. in Ireland, 10 Hogsheads of Tobacco neat Weight, &c. the Subsidy and additional Duty whereof was paid inwards by, &c. the Day of, &c. last past, as appears by the Certificate of the Collector inwards; and for the further Manifestation of his just Dealing herein, he hath also made Oath before us, of the same, &c. the Day and Year above-written.*

The Oath.

THE above-nam'd *A. B.* maketh Oath, That the above-mention'd Tobacco was really shipp'd out on, &c. aforesaid, and hath not been relanded in any Port or Creek in *England* or *Wales* since last shipp'd. That the Tobacco above-mention'd was shipp'd at the Key, on, &c.

This Oath is to be made before the Collector or Comptroller, and the Searcher.

A Cer-

A Certificate that Goods are damag'd.

WE whose Names are here-under written, experienc'd in the Nature and Value of the Goods here-under mention'd, being, by Virtue of the eleventh Article annex'd to the Book of Rates, directed and appointed by *A. B.* and *C. D.* upon the Oath administer'd to us by the said *A. B.* and *C. D.* to view and examine fifteen Hogheads of Tobacco, containing, &c. Weight neat, enter'd inwards out of the Ship *George*, of, &c. *E. F.* Master from *Virginia*, the Day, &c. do hereby certify and declare, That, &c. Pound neat of the said Tobacco is rotten, and unfit for Use. *Witness our Hands, &c.*

Affidavit made of Goods lost.

WHereas there were enter'd in the Custom-House in the Port of *London*, in the Ship call'd, &c. bound for, &c. twenty Bales of, &c. Cloth, containing, &c. the Day of, &c. in the Name of *A. B.* this Deponent. Now this Deponent saith, that the said Bales of Cloth were the proper Goods of him this Deponent, and that he hath paid the Custom of the same. And farther deposeth, that he hath receiv'd Intelligence from, &c. on, &c. last past, that the said Ship was taken by the Enemy, upon the Seas, in her Voyage towards, &c. and carry'd to, &c. and the Goods therein laden made Prize, (or that the said Ship was lost or cast away, and that the said Goods therein perish'd in the Sea). And that neither he this Deponent, nor any other to his Use, hath receiv'd, or doth expect to receive, any Benefit of or by the said Goods, or any Part thereof, by any Means, directly or indirectly, whatsoever.

An

An Agreement relating to Tunnage.

KNOW all Men by these Presents, That *A. B.* of, &c. for the Considerations herein after-
 mention'd, Hath granted, and to Freight letten un-
 to *C. D.* of, &c. the Freight of twenty Tuns of
 such Goods and Merchandizes as the said *C. D.*
 his Factors or Assigns, shall think fit to be laden on
 Board the *George of London*, whereof, &c. is Ma-
 ster, within, &c. from, &c. in a Voyage to, &c.
In Consideration whereof, the said *C. D.* for himself,
 his Executors, and Administrators, doth covenant
 and grant to and with the said *A. B.* his Executors,
 and Assigns, by these Presents, not only within,
 &c. to be accounted as aforesaid, to lade, or cause
 to be laden on Board the said Ship, at, &c. afore-
 said, the said twenty Tuns of Goods; but also well
 and truly to pay, or cause to be paid, unto the said
A. B. his Executors, or Assigns, for every Tun
 thereof, whether laden or not laden, the Sum of,
 &c. to be paid, &c. as Freight for the said Goods,
 together with Average and Primage accustom'd:
 And for the Performance of this Agreement, each
 of the said Parties bindeth himself to the other in
 the penal Sum of, &c. firmly by these Presents.
In Witness, &c.

*A Warrant to search for Goods privately con-
 vey'd away, to defraud the King of his Cu-
 stoms.*

WHereas *A. B.* of, &c. hath this Day made
 Information on Oath before me *C. D.* Esq;
 one of his Majesty's Justices of the Peace for the
 County of, &c. that on, &c. about the Hour of,
 &c.

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Ec. in the Night, he saw *E. F.* of, *Ec.* land at the Key of, *Ec.* from the Ship call'd the *George*, lately arriv'd from *Nantes* in *France*, three Casks of Liquor, about the Size of Quarter-Barrels, and convey them to his House, situate in, *Ec.* aforesaid; and the said *A. B.* having search'd the Custom-House Books, and finding no Entry made of the said Barrels of Liquor, or any Agreement made with the Collector for the Customs thereof; and the said *E. F.* being no Ways concern'd, by Profession, or otherwise, in foreign Liquors; and the said *A. B.* having produc'd a Witness to prove, that he drank Brandy and red Wine, on, *Ec.* last, at the House of the said *E. F.* who hath prov'd the same accordingly: All which being consider'd, there is good Reason to suspect, that the said *E. F.* hath conceal'd Liquors, for which Duties are payable to the Crown, with Intent to defraud his Majesty, and contrary to an Act of Parliament in that Case made. *These are therefore* to command you to assist the said *A. B.* in the Entering of the House, and to enter with him into the House of the said *E. F.* and search for the said Barrels of Liquor, or any other foreign Liquors, for which Custom ought to be paid, which may be conceal'd there; and in Case you meet with any Resistance, that you do enter the House by Force; and if you find any such Liquors there, that you do seize the same as forfeited, *Ec.* Given, &c.

C H A P. V.

Of Wrecks, in whom the Property is vested by the Civil Law; Of the King's Prerogative in Relation to Wrecks; And of the Admiralty; Of Flotsam, Jetsam, and Lagan, &c.

IN ancient Times, all Wrecks belong'd to the Crown; but by Stat. 3 Ed. 1. it is ordained, that when either a Man, a Dog, or a Cat, or any Thing escapes alive out of the Ship, there shall be no Wreck, but the same shall be kept a Year and a Day by the Sheriff, to be restored to any Person that can prove a Property in the Goods within that Time; and if no Body comes, then the same is to be forfeited to the King, or rather the Lord High Amiral, to whom they are granted by Patent.

But it was usual to seize Wrecks as forfeited to the King, only when no Owner could be found; for the Property being in that Case in no Man, it must of Consequence belong to the King, as Lord of the narrow Seas, which he is obliged to scour of Pyrates, &c. and the Product of Wrecks was ordained to contribute to the Charge. And *Bracton* says, there shall be no Wreck where the Owner comes and makes Claim to the Goods, without Limitation of Time.

If a Ship be ready to sink, and all the Men therein, for the Preservation of their Lives, quit the Ship, and afterwards she perishes; if any of the Men are saved, and come to Land, the Goods are not lost.

A Ship on the Sea was chased by an Enemy; the Men therein, for the Security of their Lives, quit-

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ted the Ship; the Enemy took the Ship, and spoil'd her of her Goods and Tackle, and turned her to Sea; by Strefs of Weather she is cast on Land, where it happen'd her Men safely arriv'd. It was resolv'd, that the Ship was no Wreck. 5 R. 2. *Fishlake's Case. Co. 2. Inst. fol. 167.*

Where a Wreck happens by any Fault or Negligence in the Master or Mariners, the Master must make Good the Loss; but if the same was occasioned by the Act of God, or done to avoid an Enemy, or Pyrate, &c. there he shall be excus'd. And if the Master, or any of the Mariners lie ashore, and the Ship during their Absence, perisheth, whether by Night or by Day, the Master or Mariners, so lying ashore, shall sustain the Damage; and those who remain'd in the Ship, shall be excused. *Leg. Rhod.*

If a Ship and Goods perish in the Sea, and the Owners abandon her, so that she becomes a mere Derelict; in such Case, the first Person that takes Possession of her, and recovers any Part of the Lading, gains a Property by the Laws of Nations. And if a Ship perishes only, and the Goods are safe; in that Case, by the *Rhodian* Law, the Goods ought to pay a Proportion of a fifth or tenth Penny, according to the Difficulty in saving the Goods; (wherein rich Goods, such as Gold and Silver, Silk, &c. pay less than Goods of great Weight and Cumber, they being in less Danger) for the Salvage.

Owners claiming a Wreck, must make sufficient Proof of their Title within the Year and Day; and they are to do it by their Marks or Cocquets, by the Book of Customs, or the Testimony of reputable Men; and if the Wreck be taken by the King, the Party may sue out a Commission to hear and determine by the Oaths of twelve Men; or he may bring his Action at Law. *F. N. B. fol. 12.*

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When Goods wreck'd are perishable, the Sheriff may sell them within the Year and Day, and the Sale shall be good; but he must dispose of them for the best Advantage, and account with the Owners. And by the Laws of *France*, all Ships and Persons belonging to them, that shall be cast ashore by Tempest, or otherwise, upon the Coasts of that Kingdom, and every Thing that has escap'd Shipwreck, is declared to be taken into the Protection of the King.

By the Civil Law, if any Person steal Shipwreck'd Goods, they shall pay four-fold to the Owner, if pursued within a Year and a Day, and as much to the Prince, or his Admiral; and so careful is this Law in requiring Restitution, that the very Stealing of a Nail, or the Worth thereof, oblig'd the Thief to the Restitution of all the remaining Goods. And by the Emperor *Antonius* was made a Law, That such Criminals should be banish'd for three Years, if they were of high Rank; and those that were base and ignoble, were to be scourged and sent to the Gallies. By the same Law, if any Man should prevent Assistance to Shipwreck'd Persons, he was to be punish'd as a Murderer; and the like Punishment was ordain'd for those who should, by Treachery, put forth any Lanthorn or Light, with Intention to subject them to Danger or Shipwreck. Hence it is that Fishers are forbidden to fish with Lights in the Night.

If Goods are wreck'd on Shore, and the Lord, having Power, takes them, he shall not pay Custom, neither by the Common Law, nor by the Statute Law; for at the Common Law, wreck'd Goods could not be charg'd with Custom, by Reason the Wreck is wholly the King's, and he could not have a Custom out of what was all his own. Stat. *West.* 1. *Shep versus Gosnold.* *Hill.* 23 & 24 *Car.* 2. *Rot.* 615.

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And Wines or other Goods, coming or brought into the Kingdom by Wreck, are not imported by any Body, but by the Wind and Sea; for such Goods are destitute of a Proprietor, until the Law appoints one: And wreck'd Goods are not brought into the Kingdom, (being cast ashore) as Merchandise for Sale. Goods drown'd, or lost in passing a Ferry, a great River, or Arm of the Sea, are not to be said exported, although they be carried to Sea.

By Stat. 12 *Annæ* c. 18. it is enacted, That Sheriffs, Justices of Peace, Head Officers of Towns, &c. and Officers of the Customs, in all Places where a Ship shall be in Danger of being stranded, or run on Shore, upon Application to them made on Behalf of the Commander of the Ship, shall command the Constables to assemble as many Men as shall be necessary for the Preservation of the Ship. And if there be any Ships of War lying at Anchor near the Place, then the Officers of such Ships are to send forth their Boats, and as many Men as they can spare, to her Assistance, under the Penalty of 100*l.* to be recover'd by the Officer of the Ship in Distress.

When a Ship is preserv'd by these Means, the Persons who assisted therein, shall, within thirty Days after, be paid a reasonable Reward for the same, by the Officer of the Ship, or Merchant; and in Default thereof, the Ship or Goods shall remain in the Custody of the Officers of the Customs, as a Security.

Persons entering such Ship in Distress, without Leave from the Commander, Constable, &c. or molesting any one in the Salvage, shall make double Satisfaction within twenty Days. And if any Goods are carried off from such Ship, and found on any Person, if they are not delivered to the Owner on Demand, such Person shall be liable to pay treble the Value of the Goods.

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If any Officer of the Customs, or his Deputy, abuse the Trust reposed in him, and shall be convicted thereof, he shall forfeit treble Damages to the Party grieved, and be incapable of any Employment in the Customs.

And by this Statute to make a Hole in the Bottom, Side, or in any Part of the Ship; or do any Thing tending to the Loss of the Ship, is made Felony, without the Benefit of Clergy.

This Act is not to extend to deprive the Crown, or any Grantee, of any Right or Claim to any Wreck or Goods that shall be *Jetsam*, *Flotsam*, or *Lagan*.

Flotsam, Jetsam, &c.

Flotsam, *Jetsam*, and *Lagan*, are Goods on or in the Sea, and belong to the King or Lord Admiral.

Flotsam is when a Ship is sunk or cast away, and the Goods float upon the Sea.

Jetsam is where the Ship is in Danger of Sinking, and the Goods are cast into the Sea for the lightening of the Ship, and notwithstanding the Ship perisheth.

Lagan is when heavy Goods are cast into the Sea before the Perishing of the Ship; and being sunk, the Master or Mariners fasten a Buoy, or other Sea-Mark, to them, whereby they may more easily be directed to the Place where they lie.

The King shall have *Flotsam*, *Jetsam*, and *Lagan*, when the Ship perisheth, or when the Owners of the Goods are not known, but not otherwise. *F. N. B.* 122.

A Man may have *Flotsam* and *Jetsam* by the King's Grant; and may have *Lagan* within the high and low Water-Mark by Prescription, as it

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appears in the *West-Country*, where the Lords of Manors prescribe to have Wreck in the Sea, so far as they can see a Humber-Barrel.

Wreccum Maris are such Goods only as are cast and left upon the Land by the Sea.

By the Grant of Wreck will pass *Flotsam*, *Fet-sam*, and *Lagan*, when they are cast upon the Land; but if they are not cast upon the Land, the Admiral hath Jurisdiction, and not the Common Law, and they cannot be said to be Wreck.

King *Edward* the Second, in the first Year of his Reign, granted by Charter the Castle of *Carisbrook*, with all the Lands and Tenements, in the Isle of *Wight*, then formerly belonging to the Countess of *Albemarle*, to his Favourite *Peter de Gaveston* and *Margaret* his Wife, and the Heirs of their two Bodies begotten, with several other Castles and Lands; but they being soon after re-seised into the King's Lands, he granted this Castle, with all its Services, and all his Lands in that Isle, to *Edward* his Son, and his Heirs, Kings of *England*; and afterwards, for the ascertaining what did of Right belong to the same Castle, a Writ of Inquisition was issued out, by which it was found *inter alia, quod wreccum Maris, pertinens ad dictum Castrum, &c.*

So that without special Words in the Patent granted to the Lord High Admiral, the Wreck of this Isle will not pass.

An Affidavit that a Ship is cast away.

A. B. of, &c. Mariner, lately hir'd in the good Ship, &c. in a Voyage to, &c. maketh Oath, That on, &c. last past, near the Cape of, &c. the said Ship, proceeding in her said Voyage, was cast away in a Storm, whereby the said Ship, the Cargo, and all the Goods on Board perished, and
were

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were intirely lost: And that only the Master and, &c. of the Men were saved, the rest of the Ship's Crew being drown'd. And this Deponent farther deposeth, That neither he, this Deponent, nor any other, to his Use, hath received, or doth expect to receive any Benefit of or by the Goods so lost, or any Part thereof, by any Ways or Means whatsoever.

A Testimonial for a Person suffering Shipwreck.

TO all Constables, &c. Greeting. Whereas *A. B.* the Bearer hereof, aged about, &c. having this Day been before me *C. D. Esq;* one of his Majesty's Justices of the Peace for the County of, &c. and made it appear, that on, &c. last, he the said *A. B.* being on Board the Ship called, &c. suffer'd Shipwreck on the Coast of, &c. and with much ado got to Land at, &c. And the said *A. B.* by Reason of his Indisposition, occasion'd by the said Shipwreck, is become unable to travel to his Place of Settlement, or to relieve himself in his Journey thither. These are therefore to require and desire you not only to permit the said *A. B.* to travel to, &c. the Place of his Birth, without Molestation, but also to assist him in his Conveyance thither, and in the necessary Expences for his Relief in his Journey. Given, &c.

C H A P. VI.

Of Factors, their Commissions and Power; their particular Business, and how far they are answerable. Of Planters and Plantations; the several Laws relating to the same, &c. To which are added some useful Precedents.

A Factor is a Merchant's Agent residing beyond the Seas, or in any remote Parts; and is constituted either by Letter or Power of Attorney.

No Factor, acting for another Man's Account in Merchandise, can justify receding in any Manner from the Orders of his Principal, though there may be a Probability of Advantage by another Management; unless the Principal give him a general Commission to act for the best, when he may do for him as he shall think fit. And in Commissions granted at this Time, it is common to give the Factor Power in express Words to dispose of the Merchandise, and deal therein as if it were his own; by which the Factor's Actions will be excused, though it turns to his Principal's Loss.

A bare Commission to a Factor to sell and dispose of Merchandise, is not a sufficient Power for the Factor to entrust any Person, or to give a farther Day of Payment than the Day of Sale of the Goods; for in this Case, on the Delivery of the one, he ought to receive the other. And by the general Power of doing as if it were his own, he may not trust out to an unreasonable Time, *viz.* beyond one, two or three Months, &c. the usual Time allowed for the Commodities disposed of; for
if

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if he does, he shall be answerable to his Principal out of his own Estate. 7 Jac. B. R. Rot. 416. *Barton and Saddocks. Bolst. 1. p. 103.*

If a Factor shall give Time to a Man for Payment of Money contracted on Sale of his Principal's Goods, and after the Time is elapsed, vend Merchandises of his own to the same Person for ready Money, (leaving the Principal's unreceiv'd) and then such Man shall become Insolvent, the Factor, in Equity, is obliged to indemnify his Principal; as he ought not to dispencc with the Non-payment of the Principal's Money after it became Due, and accept of Payment of his own only to another Man's Loss: But he is not compellable by the Common Law.

A Merchant sends Goods to his Factor, and some Weeks after he draws a Bill on him; the Factor having Effects in his Hands, accepts the Bill, and afterwards the Principal becomes a Bankrupt; whereupon a Seisure is made of the Goods in the Possession of the Factor: It has been determin'd, that the Factor shall answer the Bill notwithstanding the Seisure; and the only Benefit he can have, is to come in as a Creditor for so much as he was obliged to pay, by Reason of his Acceptance of the Bill. *Sed quære* if Equity will not give Relief in a Case of this Nature.

If Goods are remitted to a Factor, and upon Arrival he shall, thro' Negligence, or otherwise, be guilty of making a false Entry at the Custom-House, or shall land Merchandises without an Officer of the Customs, whereby they incur a Seisure or Forfeiture; in this Case, the Factor shall make good the Damage to the Principal: But if a Factor makes his Entry according to the Invoice, or Advice receiv'd by Letter, and there then happens to be a Mistake, if the Goods shall be lost, or receive any Injury, the Factor shall be acquitted. *Trin.*

7 Jac.

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7 *Jac. in B. R. Levifon versus Kirke. Lane's Rep. 65.*

One Factor may be concerned for several Merchants, and they shall all run a joint Risque of his Actions, altho' they are Strangers to each other; as if four or five Merchants remit to one Factor four or five distinct Parcels of Merchandise, and the Factor disposes of them jointly to one Person, who pays one Moiety of the Money down, and contracts to pay the Remainder at the Expiration of six Months: Now, if the Vendee breaks before the Payment of the other Moiety, every one of the Principals shall bear an equal Share of the Loss sustain'd. But if a Factor so employed shall draw a Bill of Exchange upon all those Merchants; and one of them only accepts the same, the others are not compellable to make good the Payment. *Tamen quære.* And if the Merchants were Joint-Traders it is otherwise.

If a Merchant remits counterfeit Jewels to his Factor, who sells and disposes of them for valuable Considerations, as if they were right; if the Factor receives any Loss, or is injur'd thereby, the Principal is to recompence the Damage to the Factor, and also make Satisfaction to the Party to whom the Jewels were sold. *How's Case. Hill. 25 Jac. 2 Roll's Rep. 5. B. R. Cro. 2 pt. 468.*

And if a Factor shall buy Goods on Account of the Principal, where he is used so to do, the Contract of the Factor shall oblige the Principal to a Performance of the Bargain; and he is the proper Party to be prosecuted on Non-performance. *Hill. 43 Eliz. B. R. Petty's and Soam's Case. Goldsbr. fol. 137.* But if a Factor or Servant buy Goods generally, and doth not upon the Contract declare that he buyeth only as a Factor, &c. he is chargeable in his own Right. *2 Keb. 812.* And if a Factor enters into a Charterparty of Affreightment with a Master of a Ship, the Contract obliges him only;

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only; unless he lades aboard generally the Principal's Goods, when both the Principal and Lading become liable for the Freight, and not the Factor.

Goods remitted to a Factor ought to be carefully preserv'd; yet if he buys Goods for his Principal, and they receive Damage after in his Possession, through no Negligence of his, the Principal shall bear the Loss. And if a Factor shall be robb'd, he shall be discharged in Account brought against him by his Principal. *Southel's Case. Coke lib. 4. fol. 83.*

When a Factor has made a considerable Profit for his Principal, he must take due Care in the Disposition of the same; for without Commission, or particular Orders, he is answerable. And if a Factor shall sell the Goods of his Principal, and receive counterfeit Money, he is liable to make good the Loss; but if he receives Money, which afterwards is lessen'd in Value by Edict or Proclamation of the Country wherein he resides, the Factor shall be excused, and the Loss shall be born by the Merchant.

A Factor shall suffer for not observing Orders; for if a Principal give Orders to his Factor, that he shall make an Assurance on the Ship and Goods as soon as laden, and he, (having Money in his Hands) neglects to make such Assurance, if the Ship happens to miscarry, the Factor shall answer, by the Custom of Merchants: So it is if he make any Composition without Orders from his Principal.

He is accountable for all lawful Goods which come safe to his Hands; and if he has Orders from his Principal not to sell any Goods but for ready Money, or for Commodities particularly specified, and he breaks those Orders, he is liable to the Loss or Damage that shall be received thereby; and in Case Goods are bought or exchanged without Orders, it is at the Merchant's Courtesy
whether

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whether he will receive them, or turn them on his Factor's Hands.

When a Factor has bought or sold Goods, pursuant to Orders, he is immediately to give Advice of it to his Principal, lest the former Orders should be contradicted before the Time of his giving Notice, and his Reputation thereby suffer. And if the Goods are bought, he is to ship and send them away by the first Opportunity, giving the speediest Advice, and sending a Bill of Lading.

Factors ought to be very careful in observing the Contents of all Letters from their Principals, or written to them by their Orders; and be very diligent and punctual in giving speedy and particular Answers. And they ought to make it their Business to study the Nature, Value, Rise, and Fall of Merchandises, as well here at Home as Abroad, and also the proper Seasons of Buying and Selling. And the want of frequent Writing to their Principals is oftentimes of pernicious Consequence.

The Gain of Factorage is certain, however the Success of the Voyage proves to the Merchant; but the Commissions vary according to the Distance and Customs of the Country, in the several Places where Factors are resident; at *Jamaica*, *Barbadoes*, *Virginia*, and most of the *Western* Parts of the World, the Commission runs at 8 per Cent. generally through *Italy* two and a Half per Cent. *France*, *Portugal*, *Spain*, &c. two per Cent. In *Holland*, and other Places near Home, one and a Half per Cent.

Of Planters and Plantations, &c.

All Wastes which the Natives of any Country make no Use of, nor can receive any Damage by their being in the Hands of others, may lawfully be possess'd by Planters. If a Nation or People should happen to be expell'd out of their own Land, they may seek void Places in some other Country, and there may justly Plant; and the immediate Possessing such Plantations creates a Right against all Persons, but he that hath Empire there.

Where Persons having arrived in any Territories, and planted, but before they can reap the Fruits of their Labour, the Necessities of humane Life are wanting, by the Laws of Nature they may force a Subsistence from a Neighbour-Planter; and the Reason is this, that a Subsistence belongs to every Man, unless he has merited to lose the Life which he seeks to preserve. The written Laws are in some Measure conformable to this; for if Provisions begin to fail in a Ship at Sea, those Persons which laid in particular Stores for the Passage, are obliged to bring the same out openly for the Benefit of all.

By the Stat. 12 Car. 2. c. 18. it is enacted, That no Alien shall be a Merchant or Factor in any of the Territories and Plantations belonging to *England*, in *Asia*, *Africa*, or *America*, on Pain to lose all his Goods; one Third to the King, another Third to the Governour of the Plantation, and the other Third to the Person suing in any of the King's Courts there. And no Governour, &c. abroad, shall act as a Factor or Agent, on Pain of 500*l.* by 9 & 10 W. 3.

All that shall be made Governours of such Plantations, shall, before their Entrance into their Government,

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vernment, take an Oath to do their utmost to put the Laws in Force; and upon Complaint to the King, or such as he shall appoint, that such Governours have been wittingly negligent therein, the Governours so offending shall be removed.

Where any Abatement or Privilege is given in the Book of Rates to Goods imported or exported in shipping built in *England, Ireland, Wales, Guernsey, Jersey, or Town of Berwick*, or any the King's Territories in *Asia, Africa, and America*, it is to be understood, that the Master and three Fourths of the Mariners be also *English*; and where that is required, the Meaning is, that they shall be such, during the whole Voyage, unless in Case of Sickness, Death, or being taken Prisoners, to be proved by Oath of the Master.

If any Governour of any Territories in *Africa, Asia, or America*, suffer any foreign-built Vessel to load or unload Goods, till a Certificate is produc'd, that the Owner or Owners are not Aliens, and Examination made, such Governour shall be put out of his Place.

No Sugars, Tobacco, Cotton, Wool, Indico's, Ginger, Fustick, or other Dying Wood of the Growth of any *English* Plantations in *America, Asia, or Africa*, shall be transported to any Place, other than to some *English* Plantation, or to *England, Ireland, Wales, or Town of Berwick*, on Pain to forfeit them, or the Value, and the Ship with her Furniture, one Moiety to the King, the other to him that will seise or sue for the same.

For every Vessel which shall set out from *England, Ireland, Wales, or Town of Berwick*, for any of the said Plantations, Bond shall be given, with one Surety, to the chief Officers of the Custom-House of the Place from whence she sails, of 1000*l.* if the Ship be less than the Burthen of 100 Tuns; and of 2000*l.* Penalty if of greater Burthen; that if the said Vessel load any of the said Commodities

ties at such Plantations, it shall bring them to some Port of *England, Ireland, &c.* And for all Ships coming from any other Port to those Plantations, the Governours, before the Ship be permitted to load, shall take Bond as afore, that it shall carry them to some other *English* Plantations, or to *England, Ireland, &c.* And every Ship taking on Board any of the aforesaid Goods before such Bond given, or Certificate produced from some Custom-House in *England, &c.* of such Bonds there given, shall be forfeited; and the said Governours shall twice in every Year return true Copies of such Bonds, to the chief Officers of the Customs in *London.*

The Stat. 22 and 23 *Car. 2.* enacts, That where any Goods shall be laden on Board any *English* Ship of the Burthen of two hundred Tuns, or upwards, and mounted with sixteen Guns, or more, bound to any of the Plantations, or Ports and Places in the *Mediterranean*, or elsewhere; if the Master yields up such Goods to any *Turkish* Vessels or Pirates, without fighting, he shall, upon Proof thereof in the Admiralty, be incapable of taking Charge of any *English* Vessel as Master or Commander for the future: And if he takes upon him such Charge, he shall be imprison'd for six Months. And if they that take such Goods, give back the Ship, or pay the Master any Money or Goods for Freight, or other Gift or Reward, the Goods or Money so given, or the Value thereof, and the Master's Part of such Ship, shall be liable to repair the Persons whose Goods were so delivered or taken, by Action in the Admiralty: In all which, if they be not sufficient, the Reparations shall be recover'd on the Master's Part, to be divided *pro rata*, and the Persons endamag'd have their Actions against the Master for the Remainder.

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By 22 and 23 *Car. 2. c. 26.* every Vessel that shall take on Board any of the Commodities afore-said, at any of the said *English* Plantations, till Bond be given as directed by the Statute 12 *Car. 2.* or Certificate produced from the Officers of some Custom-House in *England*, &c. that such Bond hath been there given, or which shall carry the said Goods to any Place contrary to the Tenor of such Bond, shall be forfeited, with all her Guns, Ammunition, Furniture, and Lading; one Moiety to the King, the other to him that will seise or sue for the same, in any of the said Plantations, or in the Court of the High Admiral of *England*, or of any Vice-Admiral, or any Court of Record in *England*.

But these Penalties seem to be taken off by the Stat. 25 *Car. 2. c. 7.* which ordains, That if any Vessel shall come to any of the King's Plantations to ship any Sugar, Tobacco, Cotton-Wool, Indico, Ginger, Fustick, or other Dying Wood of their Growth, and Bond shall not be first given with one Surety to bring the same to *England*; there are to be answer'd to the King several Duties, to be paid where and to whom shall be appointed in the said Plantations, before Lading thereof, and under such Penalties to Officers, and upon Goods, as for Non-payment, or defrauding the King of his Customs in *England*.

By Stat. 7 & 8 *W. 3. c. 22.* all Places of Trust in the Courts of Law, or relating to the Treasury, in any Island, Colony, or Plantation belonging to *Asia*, *Africa*, or *America*, shall be in the Hands of the native-born Subjects of *England*, *Ireland*, or of the said Islands, &c.

Tracts of Land on the Continent of *America*, held by Charter, or Letters Patent, shall not at any Time be alien'd or sold to any other than the natural-born Subjects of *England*, *Ireland*, *Wales*, or *Berwick*, without the King's Licence.

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All Laws, By-Laws, Usages, or Customs, in Practice in any of the said Plantations, which are repugnant to any Laws made in this Kingdom, are declar'd illegal and void.

All Ships, whether the King's Ships or Merchants Ships, lading or unlading any Goods at any of the Plantations in *America*, and the Masters and Commanders thereof, shall be subject to the same Rules, Visitations, Searches, Penalties, and Forfeitures, as Ships and their Ladings, &c. are liable to in *England*. And the Officers for collecting his Majesty's Revenue, shall have the same Powers as the Officers of the Customs in *England*: And Persons making Concealments, &c. shall be subject to the like Penalties.

And as by 12 Car. 2. Goods from the Plantations are to be imported in Ships, the Owners whereof are of *England*, or those Places, and three Fourths of the Mariners *English*, upon Pain of forfeiting Ships and Goods, &c. So by the Stat. 7 & 8 W. 3. it is enacted, That no Ship of *England*, *Ireland*, *Wales*, *Berwick*, *Guernsey*, *Jersey*, or any of his Majesty's Plantations in *America*, shall be deemed as a Ship of the Built of *England*, *Ireland*, &c. so as to trade to any of the Plantations, till the Proprietors of the Ship or Vessel shall register the same in the Office of the Customs, and make Oath before the Collector and Comptroller of the Customs of the Port where such Ship is built. But during the late War, Ships might be navigated by foreign Mariners: And Foreigners serving on Board any *British* Ship for two Years were to be deemed natural-born Subjects, &c. 3 & 4 Anne c. 13.

By Stat. 10 & 11 W. 3. c. 25. the Subjects of *England* and Dominions thereunto belonging, trading to *Newfoundland*, and the Seas, Rivers, &c. in and about the same, or the adjacent Islands, shall have a free Fishing-Trade to and from *New-*
M
foundland,

foundland, and the Liberty of taking Bait, and fishing in any of the said Seas, Rivers, &c. and to go on Shore there for the Curing of their Fish, and making Oil, and to cut down Wood for making and repairing of Stages, Ship-Rooms, Train-Fats, Hurdles, Ships-Boats, and other Necessaries; but no Ballast, &c. shall be thrown out of any Ship, or otherwise, to the Annoyance of the Harbours there.

Every Fishing Vessel from *England*, or the Fishermen thereof, which shall first enter any Harbour or Creek in *Newfoundland*, shall be Admiral of such Harbour for that Season; but shall reserve to himself only so much Beech or Flakes as are needful for his Boats, and one over; and the Master of the second Ship so entring shall be Vice-Admiral, and of the third Rear-Admiral: And the Persons possess'd of several Places in several Harbours or Creeks, shall chuse which they will abide in, within forty-eight Hours after Demand of any After-comer. And in Case of any Difference, the Admirals of the respective Harbours, or any two of them, have Power to determine the same.

No Fisherman or Inhabitant of *Newfoundland*, or others, shall seise or possess any Stages, &c. which did or shall belong to any Fishing-Vessels before the Arrival of the Fishing-Ships from *England*, and until such Ships are provided with Stages, &c. but such Persons are to enjoy the Houses, Stages, &c. they shall build themselves.

No By-Boat Keepers shall meddle with any House, Stage, &c. that did formerly belong to Fishing Ships, or that shall be made by such Ships. And every By-Boat Master shall carry with him at least two fresh Men in six, viz. One that hath made but one Voyage, and one who hath never been at Sea before; and every Inhabitant is to employ two such fresh Men for every Boat kept by them; and the Masters of the Fishing-Ships shall

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carry with them one such fresh Man, that never was at Sea before, in every five Men they carry: And the Masters of such By-Boats and Fishing-Ships are to make Oath before the Collector or principal Officer of the Customs of the Port they sail from, that they have such fresh Men as this Act directs, of which they shall have a Certificate *gratis*.

The Differences arising in *Newfoundland* between the Masters of Fishing-Ships, and the Inhabitants there, or the By-Boat Keepers, about the Fishing-Rooms, Stages, &c. shall be determined by the Admirals of the Fishery in the several Habcurs, but subject to Appeal to the Commanders of Men of War appointed Convoys.

No Person shall deface or alter the Mark of any Boat or Train-fat, to defraud the Owner thereof, or convert the same to his own Use; or remove, or take away the same, without giving Notice to the Admiral of the Harbour: And no Persons shall rind any Trees there growing; nor cut or set on Fire any of the Woods, or damage the same, except for necessary Fuel for the Ships and Inhabitants, and the Building and necessary Repairs of Houses, Ships, Boats, Train-fats, Stages, &c. nor cast Anchor, or annoy the haling of Sayns in the accustomed Baiting-Places, or shoot their Sayns upon the Sayns of others, or steal the Nets or Baits of others.

Whale-fins, Oil, and Blubber, taken and imported by the *Greenland* Company, shall not be liable to the additional Duty of Twelve-pence for every twenty Shillings Value of Goods imported, charg'd in the Act 8 & 9 *W. 3. c. 24*, &c. but the same, and all Whalefins, &c. of *English* Fishing, taken in the Seas of *Newfoundland*, or any of the Seas belonging to his Majesty's Plantations or Colonies, and imported by his Majesty's Subjects in

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English Shipping, are declared to be free of the said Duties.

The Inhabitants of *Newfoundland*, and the Islands and Places adjacent, shall strictly observe *Sunday*; and those Persons who keep Publick Houses, shall not that Day sell or utter any Wine, Beer, Ale, Cyder, Strong Waters, or Tobacco, &c.

All Robberies, Murders, Felonies, and other capital Crimes committed on the Land in *Newfoundland*, or in any of the Islands thereof, (heretofore adjudg'd triable only before the Lord High Constable and Earl Marshal of *England*) may be try'd in any County of *England*, by the King's Commission of Oyer and Terminer, and Gaol-Delivery.

The Admirals in every Port and Harbour in *Newfoundland*, are to see the Rules and Orders of this Act duly put in Execution, and to keep a Journal of all Ships, Boats, Stages, Train-fats, and Seamen in their respective Harbours, and (at their Return to *England*) deliver a Copy thereof to the Privy Council.

By Stat. 11 & 12 *W. 3* c. 12. if any Governor, Lieutenant-Governor, or Commander in Chief of any Plantation or Colony within his Majesty's Dominions beyond the Seas, shall oppress any of his Majesty's Subjects within their respective Governments, or be guilty of any other Crime or Offence, contrary to the Laws of this Realm, or those in Force within their respective Governments, such Oppressions, &c. shall be inquir'd of, heard, and determin'd in the Court of King's Bench in *England*, or before such Commissioners, in such County of this Realm, as his Majesty shall appoint, and by good and lawful Men of such County; and such Punishments to be inflicted, as are usual for such Offences here in *England*.

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The 6 *Annæ* enacts, That no Person, serving on Board, or retain'd to serve on Board any Privateer, or Trading Ship, in any Part of *America*; nor any Person being on Shore there, may be impress'd by any Ship of War there, unless such Person shall have deserted such Ship of War, on the Penalty of 20*l*.

By Stat. 3 *Annæ* c. 10. Persons importing directly from the Plantations in *America*, any Naval Stores, shall have as a *Premium* paid by the Commissioners, of the Navy for Masts, &c. 10*l*. per Tun, for Tar and Pitch, 4*l*. Rosin 3*l*. and Hemp 6*l*. a Tun. And no Persons in the Colonies of *New Hampshire*, *Massachusetts Bay*, &c. shall cut any Pine, Pitch, or Tar Trees, under the Growth of twelve Inches Diameter, three Foot from the Earth, on Pain of 5*l*. And setting Fire to Pitch, Pine, or Tar Trees, incurs a Forfeiture of 10*l*.

By 9 *Annæ* c. 17. no Person within the Colonies of *New Hampshire*, the *Massachusetts Bay*, and Province of *Main*, *Rhode Island*, and *Providence Plantation*, the *Narragauset Country*, or *King's Province*, *Connecticut* in *New England*, *New York*, and *New Jersey*, shall cut, fell, or destroy any white, or other Pine-Tree, fit for Masts, such Tree being of the Growth of twenty-four Inches Diameter, and upwards, at twelve Inches from the Ground, unless it be the Property of any private Person, on the Penalty of 100*l*. for every Offence, one Moiety to the Crown, the other to the Informer; Prosecution to be commenc'd within six Months, and the Penalty levy'd by Warrant under the Hand and Seal of a Justice of Peace there.

And by 8 *Geo.* c. 12. which continues the *Premiums* for importing Naval Stores, no Persons within the Colonies of *Nova Scotia*, *New Hampshire*, &c. are to cut or destroy any white Pine-Trees without Licence, on Pain to forfeit for every Tree

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of 12 Inches Diameter, and under, at three Foot from the Ground, 5*l.* for every such Tree from twelve to 18 Inches, 10*l.* from eighteen to twenty-four Inches 20*l.* and from twenty-four Inches upwards, 50*l.* And not paying the Penalty, to be committed for twelve Months.

And no Person within the said Colonies and Places, other than the Surveyor General of his Majesty's Woods, or his Deputies, or such Persons as he shall appoint, shall make any Pine-Trees with the broad Arrow, under the Penalty of 5*l.* for every Offence.

By Act 3 Geo. the Inhabitants of the Islands of *Jersey*, *Guernsey*, *Sark*, and *Alderney*, shall and may import into any lawful Port of *Great Britain*, any Goods and Merchandise produc'd in the said Islands, without paying any Customs or Duties, more than is paid for the like Goods of the Product of *Great Britain*.

P R E C E D E N T S.

Articles of Agreement between a Merchant in the Country and his Factor in Town.

Articles of Agreement Indented, Made, Concluded and Agreed upon this Day, &c. between A. B. of, &c. Merchant, of the one Part, and C. D. of London, &c. of the other Part, as followeth, viz.

WHereas the said *A. B.* hath Contracted and Agreed with the said *C. D.* to employ him as a Factor in *London*, for the vending, selling, and uttering of, &c. and all such other Merchandises as the said *A. B.* shall consign and send unto the
said

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faid C. D. at his now Dwelling-house in, &c. for and during the Space of seven Years, to commence from the Day of the Date of these Presents. *It is therefore* Covenanted and Agreed by and between the said Parties to these Presents, in Manner following; (that is to say) *Imprimis*, That the said C. D. shall and will receive and take into his Custody, Charge, and Trust, all such Wares and Merchandises as he the said A. B. shall send and consign to him the said C. D. and shall keep or cause to be kept, true and perfect Books of Account in Writing, of all such Wares and Merchandises as the said A. B. shall from Time to Time during the said Term, consign unto the said C. D. and which shall come into his Charge and Custody; and shall and will also sell the same for the best Profit and Advantage of the said A. B. to Men of Substance, and not only at the best Prices that can be gotten, but the soonest Days of Payment. And when they shall be vended by the said C. D. he shall enter into his said Books of Account, to whom sold, and at what Rates; and shall also make true Payment and Delivery unto the said A. B. his Executors, Administrators, or Assigns, of all such Monies, Specialties, and other Things, as shall come to his Hands, and be received by him for the said Wares and Merchandises, once a Year during the said Term, when Accounts are to be settled. And at the End and Expiration of the said Term, shall deliver up all such Merchandises as shall remain unsold in his Hands and Possession. *Item*, That the said C. D. shall not during the said Term of seven Years, deal or trade as a Factor, for any other Person or Persons, beside the said A. B. in the Business of, &c. or the buying or selling of, &c. or any other Wares and Merchandises consigned to him by the said A. B. *And lastly*, the said A. B. in Consideration of the Trouble in the Management of the said Factorship, doth Covenant and

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Agree for himself, his Executors, and Administrators, to pay unto the said C. D. his Executors or Administrators, after the Rate of 5*ol. per Ann.* of lawful *British* Money, yearly and every Year, during the Term aforesaid, or for so long Time as he the said C. D. shall transact and manage the Factorship and Business abovementioned. *In Witness,* &c.

A Condition from a Factor to his Principal, for faithful Service, &c.

WHereas the above-nam'd *A. B.* hath, at the Request of the above-bound *L. B.* and *C. D.* preferr'd the said *C. D.* as his Factor, to serve him at *Port-Royal* in *Jamaica*, and other Parts and Places beyond the Seas; and the said *C. D.* is upon his Departure for *Port-Royal* aforesaid, to take upon him the said Business and Employment. Now the Condition of this Obligation is such, that if the said *C. D.* shall, from Time to Time, and at all Times, during his Employment abroad in the Service of the said *A. B.* whensoever he shall be thereunto requir'd by the said *A. B.* his Executors, Administrators, Agents, or Assigns, make and give unto him or them, true and perfect Accounts in Writing, of, for, and concerning all and every such Goods, Merchandises, Money, Bills of Exchange, and other Things whatsoever, which shall, at any Time or Times hereafter, be consign'd or sent unto him the said *C. D.* by or from the said *A. B.* his Executors, Agents, or Assigns; and of and for all and every the Return, Proceed, and Benefit to be had or gotten for or in Respect of the said Goods, Money, Merchandises, Bills of Exchange, and other Things whatsoever, for which he the said *C. D.* shall or may be charg'd or answerable,

or

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or which shall come to, or be committed to his Charge, Custody, or Disposition, by and from the said *A. B.* or by or from any other Person or Persons, wherewith the said *C. D.* his Executors, or Administrators, shall, can, or may be lawfully charg'd, or chargeable, by Reason of his said Employment, in any Respect whatsoever. *And* shall likewise well and truly remit, pay, and deliver unto the said *A. B.* his Executors, Administrators, and Assigns, upon every such Account made, all such Money, Goods, Wares, Merchandises, Notes, Securities for Debts, and other Things in his Hands, in such Nature and Quality as the same shall then be and consist, as by and upon the same Account shall appear to be due or belonging to the said *A. B.* his Executors, or Assigns. *And farther*, if the said *C. D.* shall, from Time to Time during the said Employment, follow the Orders and Directions of the said *A. B.* his Agents and Assigns, concerning the Management of his Business, and the Sale, Disposal, and Proceeds of all and every the Goods, Merchandises, and Effects committed to his Care. *Then, &c. or else, &c.*

A Power made by the Owners of a Ship, to their Factor, for the Sale of the Vessel abroad.

TO all People, &c. We *A. B. C. D. &c.* of, &c. Merchants, Owners of the good Ship called the *George*, of the Burthen of, &c. whereof, &c. is Master, now lying at Anchor, &c. send Greeting. *Whereas* the said Ship is now bound in a Voyage to *Port-Royal* in *Jamaica*, with *J. B.* our Factor on Board; and by Reason of her great Age and ill State of Repairs, we, the said Owners, despair of her safe Return from the said Port of
Jamaica

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Jamaica to the said Port of *London*, with a Cargo on Board. *Now know ye*, that we the said Owners of the said Ship, have given and granted, and by these Presents do give and grant unto the said *J. B.* full Power and Authority to sell and dispose of the said Ship to any Person or Persons as he shall think fit, for the greatest Price that can or may be had or gotten within the said Island of *Jamaica*, either by Inch of Candle, or otherwise, as he shall think convenient; and to do and perform all and every other Act and Acts, Thing and Things whatsoever, touching the Sale of the same, as fully and effectually as we our selves might or could do in our own Persons; hereby ratifying and confirming all, and whatsoever the said *J. B.* his Substitutes, or Assigns, shall do, or cause to be done in the Premises, by Virtue of these Presents. *In Witness, &c.*

An Assignment over of Negroes, and Letter of Attorney to receive Profits, &c.

WHereas *A. B.* and *C. D.* Merchants, now Planters in the Island of, &c. have this Day had and received of and from *E. F.* of, &c. three Negroe Slaves, call'd by the Names of, &c. for which Slaves, they the said *A. B.* and *C. D.* have given Security to the said *E. F.* for the Payment of the Sum of, &c. or to the Value thereof in good merchantable Sugars, of the Produce of, &c. at and upon, &c. next. *Now, know all Men by these Presents*, That I the said *E. F.* for the Considerations aforesaid, have made, ordain'd, and in my Stead and Place, put the said *A. B.* and *C. D.* my true and lawful Attornies and Assigns, in my Name, but to the only proper Use and Behoof of them the said *A. B.* and *C. D.* to ask, demand, levy,

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levy, recover, and receive, by all lawful Ways and Means whatsoever, of and from *J. B. of, &c.* (my Factor within the said Island of, &c.) his Executors, Administrators, or Assigns; and of and from all and every other Person and Persons whatsoever, whom it doth, shall, or may concern, all such Merchandises, Benefit, Proceed, and Profit of the said Negroes, which at any Time hath or shall come to his or their Hands. *And I give, and by these Presents grant unto my said Attornies, my full Power and Authority to sue, arrest, &c. and upon Recovery, Acquittances in my Name to make, seal, and deliver, and one Attorney under them to substitute, and generally to do and execute all and every other Act or Acts, Thing and Things whatsoever needful and necessary in the Premisses, as fully and effectually as I my self might or could do personally: Hereby ratifying and confirming all and whatsoever my said Attornies, or either of them, or their Substitute, shall lawfully do or cause to be done in or about the Premisses. In Witness, &c.*

A Letter of Attorney to receive the Revenue of Plantations.

TO all People, &c. *A. B. of, &c.* sendeth Greeting. *Whereas* the said *A. B.* is seised in his Demesne, as of Fee, of and in two several Plantations in the Island of *Barbadoes*, called or known by the Names of, &c. together with the Slaves, Horses, Mills, Coppers, and other Appurtenances thereunto belonging. *Now know ye, That* the said *A. B.* hath constituted, authorised, and appointed, and by these Presents doth constitute, &c. *C. D. of, &c.* and hereby give to him full Power and Authority, in his Name, to enter into and

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and upon the said Plantations, whereof he the said *A. B.* is now seised, as aforesaid ; and to have, receive, and take the Rents, Issues, and Profits of the same respectively, with the Appurtenances, to his Use ; and to lease, demise, let, and set to such Person or Persons as he shall think fit, all his Plantations, Tracts, and Seats of Land, Negroes, Horses, Coppers, and Mills whatsoever, in the said Island of *Barbadoes*, or any Part thereof, for such Term or Number of Years, (not exceeding, &c.) and for and under such yearly and other Rents, Covenants, Proviso's, and Agreements, as he thinks convenient ; or otherwise to manage, occupy, or employ the same, &c. as to him the said *C. D.* shall seem best and most for his Benefit and Advantage. *And*, from Time to Time, to receive and take the Revenues and Profits of the said Houses, Plantations, Lands, and Premisses above-mentioned ; and to use and take all lawful Methods, by Action, Distress, or otherwise, for the obtaining and recovering the Rents, Issues, and Profits of all or any Part of the said Premisses, or to compound for the same as he shall see fit. *In Witness, &c.*

*To manage the said Plantations, and receive
the Produce thereof.*

AND the said *A. B.* doth hereby make, ordain, constitute, and appoint, and in his Stead and Place put the said *C. D.* his true and lawful Attorney, for him, and in his Name, and to his Use, from Time to Time, to ask, require, demand, sue for, recover, and receive, all and every Sum and Sums of Money, Sugars, Debts, Goods, Wares, and Merchandises, due, owing, or belonging, or which shall grow due or belonging to him the said *A. B.* from any Person or Persons
what-

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whatsoever in the said Island of *Barbadoes*; and on Non-payment, or Non-delivery thereof, or of any Part thereof, for him and in his Name, to use and take all proper Methods, according to the Laws and Customs of the said Island, for the obtaining and Recovery of the same; and on Payment or Delivery thereof to his said Attorney, to release and discharge the Person and Persons so paying and delivering the same. *And* he the said *A. B.* doth hereby farther authorise and empower the said *C. D.* to do, execute, and perform all other lawful and reasonable Act and Acts, Thing and Things whatsoever, for him, and in his Name, or otherwise, touching and concerning the Management or Disposal of all or any Part of his Estate, real or personal, within the said Island of *Barbadoes*, and for the recovering and receiving the Profits and Produce thereof, or of any Part or Parcel thereof, or any other Matter or Thing whatsoever, as he himself might, or could do, if he were personally present to do the same. *And* one or more Attorney or Attornies, under him, to make, substitute, and appoint, for all or any the Purposes aforesaid, hereby ratifying, confirming, and holding firm and stable whatsoever his said Attorney, or his Substitute or Substitutes, by and under him appointed, for all or any the Purposes aforesaid, shall do, execute, and perform, or cause to be done, &c. in and about touching or concerning the Premises. *In Witness, &c.*

A Lease made to a Person, of Lands in the West-Indies, rendering a Moiety of the Profits for Rent.

THIS Indenture, made, &c. between *A. B.* of, &c. of the one Part, and *C. D.* of, &c. of the other Part, *Witneseth*, That the said *A. B.* for and in Consideration of the Rent and Covenants herein

herein after reserved and contained, which on the Part and Behalf of the said *C. D.* his Executors and Administrators, are and ought to be paid and performed, *Hath* demis'd, granted, and to Farm letten, and by these Presents doth demise, grant, and to Farm let unto the said *C. D.* *All* that his Share, Part, and Portion of Land, containing, &c. situate and being in the Island of, &c. as the same was lately, and now is separated and divided from other Lands inhabited by the *English* Merchants and Planters, or their Assigns, and allotted unto the said *A. B.* for his Share of his Adventure with the Company of the said Islands of, &c. and now are, or late were, in the Tenure or Occupation of, &c. or his Assigns, together with free Ingrefs, Egrefs, and Regrefs, to and for the said *C. D.* his Executors, Servants, and Assigns, by and through, &c. at all convenient Times, and by all fitting and convenient Ways to fetch Water from the Springs and Rivulets thereunto adjoining, as Need shall require. *To have and to hold* the said Share of Land, and all and singular other the Premisses, and every Part and Parcel thereof, with the Appurtenances, unto the said *C. D.* his Executors, Administrators, and Assigns, for and during the Term of seven Years, and fully to be compleat and ended. *Yielding and paying* therefore yearly, and every Year, during the said Term, unto the said *A. B.* his Heirs and Assigns, the Moiety, or one Half Part of all the Profits and Gains whatsoever, which shall yearly, during the said Term, be made or raised, by or by Means of the digging, setting, planting, sowing, manuring, and employing the said Lands and Premisses above-mentioned, and every, or any Part thereof, or by any other Ways or Means whatsoever; the same to be yearly, and every Year, once or oftener, (as Shipping may conveniently be had) sent into *England*, to and for the Use of the said *A. B.* his Heirs, and Assigns,

Assigns, for and in full Satisfaction and Payment of all Manner of Rents whatsoever. *And* the said C. D. for himself, his Executors, Administrators, and Assigns, doth covenant and grant to and with the said A. B. his Heirs and Assigns, by these Presents, That he the said C. D. shall and will, once in every Year, yearly or oftener, during the said Term hereby granted, and as Shipping may be conveniently had, as aforesaid, make and send unto the said A. B. his Heirs, or Assigns, a just and true Account how the Lands and Premises, hereby demis'd, have (until that Time) been employed and used. *And also* with the same Account shall and will send and deliver, or cause to be delivered, unto and for the Use of the said A. B. his Heirs, and Assigns, at the City of, &c. the said Moiety, or one Half Part of all the Increase, Profit, and Gains, above by these Presents reserv'd, which shall happen to be made, or arise, by Means of the husbanding and employing of the said Lands and Premises hereby demised. *And farther*, that he the said C. D. his Executors, Administrators, or Assigns, shall and will, yearly, and at all Times and Seasons, in good Order of Husbandry, manure, set, sow, plant, and employ the Premises to the best Advantage, according to the Custom of the Country there used, &c. (Usual Covenants for quiet enjoying, &c. and Power of Entry on Non-payment of Rent, &c.) *In Witness, &c.*

C H A P. VII.

Of Letters of Marque and Reprizal; where lawful, &c. Of Privateers, and Goods subject to Seizure as Prize, the Distribution of Prize-Goods, and Encouragement to Mariners: And of Piracy, and Robbery on the Seas: What Acts will amount to Piracy; Trying of Pirates, &c.

GOODS may be taken upon the Sea, by Letters of Marque, and *Jus Reprisaliarum*.

Reprizal is the Re-taking, or Taking again of one Thing for another. And by *Stat. 27 Ed. 3. cap. 17. Reprisalia est potestas pignerandi contra quemlibet de terra debitoris data creditori pro injuriis & damnis acceptis, vocabular utriusq; Juris.*

King Henry the Fourth, on Complaint of the Commons of *England*, (who had suffer'd many Wrongs and Injuries in the Loss of their Shipping upon the main Sea, contrary to Leagues, Safe-Conducts, and Truces made with other Nations) reciting their Willingness to provide Remedy and Relief for the Griev'd, by Spoil and Injuries done unto them beyond the Seas, Enacted, That upon Application to the Keeper of the *Privy Seal*, (on Evidence shewn) he shall sign Letters of Request, to demand Restitution and Reparation to all Persons injur'd; which, if not made in convenient Time, then the Lord Chancellor of *England* shall grant Letters of Reprizal, in due Form of Law, to obtain the same by Force, and for the Indemnity of the Persons interested. And this is confirm'd by *Stat. 4 H. 5. cap. 7.* But Letters of Reprizal were granted long before these Statutes,
by

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by the Kings of *England*, by Virtue of their Prerogatives; and this Act doth not restrain the King's Prerogative.

There are two Sorts of Reprizals, ordinary and extraordinary: The ordinary Reprizals are either within the Realm or without, and are grantable where the Merchandizes of *English* Merchants are spoil'd or taken from them in Parts beyond the Seas, by Merchant-Strangers, and the *English* Merchants cannot, upon Suit, or the King's Demanding of Justice, obtain Satisfaction; upon Testimony of such Prosecution, a Writ shall issue out of the Chancery, to arrest the Merchant-Strangers of that Nation, and their Goods here in *England*: The other, which is for Satisfaction out of the Realm, is under the Great Seal, and may not be revok'd. *Lex Mercat.* 120.

The extraordinary Reprizals are by Letters of Marque for Reparation at Sea, or any Place out of the Realm, grantable by the Secretaries of State, with the Approbation of the King and Council; these are granted only during the King's Pleasure, and commonly to weaken an Enemy in Time of War; so that they may at any Time be revok'd.

There are usually sent two or three Letters of Request, according to the Satisfaction return'd in Answer, before the Commission of Reprizal is awarded; and such Letters generally assign a Time certain for Damages to be repair'd, if not, Reprizals to issue forth.

In Relation to Prosecutions abroad, Reprizal may be granted on wrong Judgment given in Matters not doubtful, which might have been redress'd, either by the ordinary or extraordinary Power of the Country or Place; and the which was apparently perverted or deny'd: But if the Matter be doubtful, *contra*: For in Causes dubious, there is a Presumption that Justice was truly administer'd.

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If an *Englishman* prosecutes a Person in any legal Court beyond the Seas, whereupon the Military Governor opposes the Prosecution, and by his Means the Debtor and his Goods are convey'd away, but a Sentence or Judgment is obtain'd: By this the Execution is frustrated, and Letters of Reprizal shall be granted. *See* against the Governor of *Leghorn*.

But if a Merchant of *England* shall commence a Suit, in the ordinary Courts of Law, beyond the Seas, and Judgment is obtain'd against him, from which he appeals to the Supreme Court, and there the first Judgment is confirm'd and allow'd; tho' the Complainant hath receiv'd a Judgment contrary to the Right of the Cause, yet he shall not have Letters of Reprizal; but it may, in an extraordinary Case, occasion Letters of Request to have a Re-hearing.

If any Person shall be kill'd, wounded, spoil'd, or any Ways damag'd in a hostile Manner, in the Territories or Places of any King or Potentate, to whom Letters of Request are transmitted, and no Satisfaction shall be made the Person injur'd, there is no Compulsion to resort to the ordinary Prosecution, but Letters of Reprizal shall issue forth; and the Prince against whom the same are awarded, is oblig'd to make Satisfaction out of the Estates of the Persons committing the Injuries; and in Case of a Deficiency there, it will then be adjudg'd a common Debt on his Country.

Where Misfortunes happen to Persons, or their Goods, residing in a foreign Country in Time of War, Reprizals are not to be granted; in this Case, they must be contented to sit down under the Loss, for they are at their Liberty to relinquish the Place on the Approach of the Enemy, when they foresee the Country is subject to Spoil and Devastation: And if they continue, they must partake of the common Calamity.

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Where Ships are driven into Port by Storm or Strefs of Weather, they have an Exemption from the Law of Reprizals of common Right; but by the Law of *England* they are not exempted, without a Provision made in the Writ or Commission.

If a Ship, having Letters of Marque or Reprizal, shall take the Ships and Goods of that Nation against whom the same are awarded, and bring the same into a Neuter Port, the Owners may there seize her; or there the Admiral may make Restitution according to Law, as well of the Ship's Goods to the Owners, as the Captives to their Liberty; for that the same ought first to have been brought *infra præsidia* of that Prince or State, by whose Subjects they were taken. 2 *Keble* 441.

When a Ship is taken, it is to be brought *infra præsidia*; and the Captor must exhibit all his Ship-Papers, and captive Mariners to be examin'd, in Order to Adjudication; 'till when, Bulk ought not to be broken without Commission; nor may the Captain permit an Imbezilment of the Lading, or sell, barter, or dispose of any Part without Commission; for the King hath a Proportion in all Prizes. 3 *Eliz. cap. 5.*

And the Profits of Prizes are to be equally divided among all the Ships present, and not solely to the Captor: Therefore if Letters of Reprizal are granted to two Ships, and they happen both of them at Sea to meet a Prize, and the one attacks, and enters her, by Means whereof she becomes Conqueror; yet the other hath Right to an equal Distribution with the Captor, although he did nothing in the Engagement; for the Presence of the other Vessel, arm'd and prepar'd for Battel, becomes a Terror, and will occasion a Ship the sooner to yield. *Mich. 32 Eliz. Somer's and Bulkley's Case. Leon. 2 pt. 182.*

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If a Ship, having Letters of Reprize, shall attack a Vessel, and she refuses to yield, she may be assaulted and enter'd; and if it falls out, that by Accident some of those which make Resistance are slain, the Fault will lie at their own Doors, for hindering the Execution of what is legal and granted by Authority.

Sometimes for the Fault of a Few, a Debt becomes National; and the Goods of the Guiltless become liable, (if taken) for Satisfaction, but the Party will have Contribution. *F. N. B. fol. 162.* Tho', when Depredations have happen'd to foreign Merchants, and Complaint hath been made, Commissions have frequently issu'd forth to make Inquiry, and award Satisfaction. Some Merchants of *Genoa*, by Petition, set forth a Complaint against the Inhabitants of the Isle of *Guernsey*, for a Depredation, in Taking away and Detaining their Merchandize and Goods, to a very considerable Value, out of a Ship wreck'd by Tempest near the said Isle; upon which a Commission was granted, and the Commissioners were empower'd to punish the Offenders, and to make Restitution and Satisfaction for the Damages sustain'd.

If a Letter of Marque shall wilfully and knowingly take a Ship and Goods belonging to another Nation, not of that Nation against whom the Commission is awarded, but of some other State in Amity, this amounts to a down-right Piracy; whereupon the Offenders will incur a Forfeiture of their Vessel, and the Owners will be for ever concluded by the same. *Trin. 2 Jac. in B.R. Rol. Abr. f. 530.*

Of Privateers and Prizes.

That *Privateers* are lawful, there is no Room to question. If a War be enter'd into on a just Foundation,

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dation, these cannot be unjust; and certainly Goods of an Enemy are liable to Seizure or Spoliation, as well as his Person to the Fate of Arms.

By 6 *Annæ*, cap. 37. The Lord High Admiral, or Commissioners of the Admiralty, during the War, may grant Commissions to Commanders of Ships, for the Taking and Seizing Ships and Goods of Enemies: And Persons serving on Board Privateers, &c. are not to be impress'd by any Ship of War, under the Penalty of 20*l*.

Persons concern'd in Privateers, administer at their own Costs a Part of a War, by providing Ships, of Course, and all other military Utensils, to endamage the Enemy; and they have, instead of Pay, Leave granted to keep what they can take from the Enemy; but they may not convert to their own private Uses any Prizes taken, before the same have been by Law adjudg'd lawful to the Captors, and the Admiral had his Share, which is a tenth Part.

Privateers may not attempt any Thing against the Laws of Nations; as to assault an Enemy in a Port or Haven, under the Protection of any Prince or Republick, be he Friend, Ally, or Neuter; for the Peace of such Places must be inviolably kept: And therefore by a Treaty made by King *William* and the States of *Holland*, before a Commission shall be granted to any Privateer or Caper, the Commander is to give Security, if the Ship be not above One hundred and fifty Tuns, in 1500*l*. and if the Ship exceed the Burthen of One hundred and fifty Tuns, in 3000*l*. that they will make Satisfaction for all Damages which they shall commit, contrary to Treaties with that State; upon Pain of forfeiting their Commissions; and the Ship is made liable.

Beside these private Commissions, there are special Commissions granted to those that take pay,
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who

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who are under a Marine Discipline; and if they do not obey their Orders, they may be punish'd with Death. And the Wars in latter Ages, have given Occasion to Princes to issue forth these Commissions to endamage the Enemy in their Commerce, and to prevent such Supplies as might strengthen them, or lengthen out the War; and to prevent the Separation of Ships of Force from their respective Fleets or Squadrons.

If a Ship, wholly laden with contraband Goods, be taken by a Privateer, both the Ship and Goods are Prize; but if Part of the Goods only is prohibited, and the other Part is not, only the Goods prohibited become Prize; and the Ship and the Remainder of the Goods are free to proceed in the Voyage, without being brought into Port. If any such Vessels shall be attack'd in Order to be examin'd, and they refuse to submit, they may be assaulted; and if the Persons on Board do not condescend to surrender themselves, the Ships may be enter'd by Force, and the Persons resisting may be slain.

Powder, Shot, Guns, Swords, and all other Instruments and Provisions of Armature for Sea or Land, bound for an Enemy from a neuter Nation, or a Nation in Amity with both the warring States, shall be taken as Prize; and in a Time of Necessity, Money, Corn, Victuals, Ships, and the like, may be seiz'd as Prize; but this must be in a Time of great Exigency, when the State of the War is so bad, that a Prince cannot possibly defend himself, or endamage the Enemy, without intercepting of such Things.

And Persons attempting to relieve an Enemy, may be punish'd; unless the same be done by Necessity of Obedience, in which Case, though the Persons are highly blameable, yet are they not punishable.

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If a Suit be commenc'd between the Captor of a Prize and a Claimant, and Sentence is obtain'd for the Person re-claiming; upon giving Security, such Sentence shall be executed, notwithstanding any Appeal by the Captor, which shall not be observ'd; neither should it be observ'd, if Sentence were given against the Claimers.

Whether a Ship be Prize or not, shall be try'd in the Admiralty, and no Prohibition shall be granted: In Time of War between us and *Denmark*, a Privateer belonging to *Scotland* took a Ship as Prize, being a *Danish* Vessel, and she was condemn'd as Prize by the Admiralty of *Scotland*: A Person libell'd in the Admiralty of *England*, and suggested, that she was not a *Danish* Vessel, but a Ship of *London*. It was resolv'd *per Curiam*, that as the Matter is only Prize, or not Prize, no Prohibition should be granted. *Tompson and Smith. 1 Sid. 320. 2 Keb. 158 & 176.*

By the Stat. 4 & 5 *W. & M.* it is enacted, That during the War with *France*, all Vessels with their Ladings, and all Goods and Merchandizes that shall be taken and seiz'd as Prize, shall be brought into some Port of this Kingdom; and, before breaking of Bulk, put into the Possession of the Commissioners of Prizes, or their Agents, who, with two others intrusted by the Officers, are to preserve the same, 'till they shall be adjudg'd Prize, except where the Goods are perishable; in which Case the Judge shall take Bail for them.

After the Goods shall be adjudg'd Prize, they are as soon as conveniently, to be sold by the Commissioners for Prizes, &c. in the Presence of Persons intrusted by the Commissioners of the Customs, and the Owners, Officers, and Mariners of the Ships of War, publickly, by Inch of Candle.

The King's Duties being deducted, the neat Proceed in Case such Prize were taken by a private

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Man of War, shall be divided into five Parts; four Parts to be answer'd to the Persons interested in the Privateer, and the fifth to their Majesties; and the Ship, with its Furniture, is to be enjoy'd by the Persons interested in the Privateer. And if the Prize be taken by any of the King's Ships, the neat Produce shall be divided into three Parts, one Third to be answer'd to the Commander; (one Third whereof is to be distributed amongst the Ship's Crew) one third Part to be paid the Treasurer of the Navy, for the Relief of the sick and wounded Mariners, &c. and the other third Part to their Majesties. And if Prizes are taken by any Merchant-Ship in the Service of the Crown, the Proceed is to be divided in like Manner as Ships taken by Men of War.

If any Persons shall imbezil, or conceal, or put on Shore, Goods or Merchandize in any other Place than the King's Warehouse, they shall lose their Share of such Goods, which shall be forfeited; one Moiety to the King, and the other to the Informer.

Ships or Goods of *France*, taken by any Privateer by Collusion, shall be adjudg'd lawful Prize; and one Moiety thereof shall be forfeited to their Majesties, and the other Moiety to him that shall discover the same. And if a Man of War shall take such Ship or Goods, by Collusion, the Commander shall forfeit 1000*l*.

If any Man of War, or Privateer, shall take or destroy any *French* Man of War, or Privateer, they shall receive for every Piece of Ordnance in the Ship so taken 10*l*. Reward, to be paid by the Commissioners for Prizes.

Where a Vessel shall be taken as Prize by a Privateer, having no Goods aboard of the Growth and Manufacture of *France*, the Persons interested in such Privateer, shall have the whole
to

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to their own Use, after Condemnation and Payment of the Duties.

If a Ship laden with Wool to be transported contrary to Law, be taken by any Privateer, the Persons interested in the Privateer, shall have a Moiety of the Vessel and Goods, and the King the other Moiety.

Where any Vessel shall be taken within any of his Majesty's Ports, Rivers, or Havens, by any Privateer, such Prize shall belong to the King, as a Perquisite of the Admiralty; and the Captors to have only such Part as the King shall think fit to allow, by Way of Encouragement.

If any Vessel, taken as a Prize, shall belong to any of the Subjects of *England*, being before taken by Enemies, the same shall be restor'd to the former Owners, by Decree of the Admiralty, they paying for the Salvage to the Captors and Seamen an eighth Part of the Value.

Ships taken within the Streights of *Gibraltar*, may be carry'd into *Cadiz*, or *Alicant*, or *Messina*, or *Naples*, and be put into the Possession of Persons authorised to receive the same, 'till by the Admiralty they shall be adjudged lawful Prize, or otherwise legally disposed of. Ships taken as Prize in *America*, may be carried into any Ports there, and put into the Possession of the chief Governor.

If the Commissioners of the Prizes, or of the Customs, shall detain the Shares belonging to Persons interested in Privateers, two Days after the same ought to be paid, and Demand thereof made, free from all Deductions, (except Warehouse Room and 2*l.* per Cent.) they shall forfeit double the Sum detained.

By Stat. 6 *Annæ c.* 37. there shall not be paid to Judges and Officers of the Court of Admiralty, for condemning of Captures as Prize, above 10*l.* if the Prize be under 100 Tuns; nor above 15*l.* if

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if of greater Burthen. And if any Judge or Officer shall delay Proceedings relating to the condemning, discharging, releasing, or delivering of Goods taken as Prize, within the Times limited, or as soon as the same ought to be done, he shall forfeit 500*l.* one Moiety to the King, and the other to the Informer.

By Stat. 7 *Annæ*, c. 8. Oils made of Fish, and all Goods of any foreign Plantation, not belonging to *England*, which shall be taken as Prize, and enter'd at any Custom-House, and for which no Duties have been paid, shall be liable to such Customs as they were subjected to by Declaration, 2 *Annæ*, the said Duties to be detain'd and satisfied, and apply'd, in such Manner, as by the Act 6 *Annæ*, intitled, *An Act for continuing half Subsidies*, &c. is directed concerning the Duties imposed on Prizes.

By Stat. 9 *Annæ*, c. 27. all Prize-Goods and Merchandises taken in *America*, by Ships of War, and imported into any of the Plantations in *America*, shall pay such Customs as are payable for the like Goods imported into those Plantations from *Great Britain*. And all Prize-Goods imported into *Great Britain*, shall be subject to the Payment of the same Duties as those Goods would have been, had they not been Prize.

See the Act made in the late Reign for securing of Trade by *Convoys*, and relating to *Prizes*, &c. *postea*.

Of Piracy.

Pirates are common Sea-Rovers, without any fixed Place of Residence; who acknowledge no Sovereign, and no Law, and are the common Plagues and Disturbers of the Peace of the Universe.

They are Enemies to all, for which Reason neither Faith nor Oath is to be kept with them. They
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are deny'd Succour by the Laws of Nations: And by the Civil Law, a Ransom promised to a Pirate if not comply'd with, creates no Wrong; for the Law of Arms is not communicated to such, neither are they capable of enjoying that Privilege, which lawful Enemies are intitled to in the Caption of another.

If a Pirate enters a Port or Haven, and assaults and robs a Merchant-Ship at Anchor there, this is no Piracy, because it is not done *super altum Mare*; but it is a downright Robbery at the Common Law, the Act being *infra Corpus Comitatus*: And if the Crime be committed either *super altum Mare*, or in great Rivers within the Realm, which are look'd upon as common Highways, there it is Piracy. Sir Francis Moore, 756.

A Merchant procures Letters of Marque or Reprize, and then delivers the Commission to Persons to endeavour a Satisfaction; if such Persons commit Piracy, though the Vessel is forfeited, the Merchant is not liable to make Satisfaction. *Trin. 7 Jac. in B. R. Roll's Abr. 530.* But such a Ship, or any other, being at Sea, and in great Necessity, may attack another Ship, and take out Victuals, Cables, Ropes, Anchors, or Sails, (if that other Ship can possibly spare them, and paying or giving Security for the Payment of the same) and be no Piracy.

If a Merchant lose his Goods at Sea by Piracy or Tempest, (not being wreck'd) and they afterwards come to Land, on making Proof that he is the Owner, they shall be restor'd. And if a Pirate take Goods upon the Sea, and sells them, the Property is not thereby changed; no more than if a Thief upon the Land had stoln and sold them. 27 Ed. 3. c. 13. Godb. 193. Barber's Case. Yet, by the Common Law of England, if a Man commit a Piracy upon the Subjects of any other Prince, and brings the Goods into England, and sells them
in

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in a Market-Overt, the same shall be binding, and the Owners concluded. *Hob.* 79.

Where Goods are taken by a Pirate, and afterwards the Pirate, making an Attack upon another Ship, in the Attempt is conquer'd; by the Law Marine, the Prize becomes absolutely the Captor's; but then an Account must be render'd to the Admiral, who may make Restitution of the Goods to the Owners, if they are Fellow-Subjects of the Captor's, or belong to any State in Amity with his Sovereign, on paying the Costs and Charges, and making the Captor an equal Consideration for his Service.

If a Pirate at Sea assault a Ship, and in the Engagement kills a Person in the other Ship, though he doth not enter her, by the Common Law, all the Persons on Board the Pirate-Ship are Principals in the Murder; but by the Law Marine, they who gave the Wound only shall be Principals, and the rest Accessaries, if the Parties can be known. 28 *Eliz. m.* 24. *Telverton*, fol. 134. *William's Case*.

If Piracy be attempted on the Ocean, and the Pirates are vanquish'd, the Captors may in such Case immediately inflict a Punishment, by hanging them up at the Main-Yard-End, and they are not obliged to bring them to any Port; but this is understood only in Places where no legal Judgment may be obtained. And hence it is, that if a Ship shall be on a Voyage to any Part of *America*, or the Plantations there, on a Discovery of those Parts, and in her Way she is attack'd by a Pirate, but in the Attempt the Pirate is overcome, by the Law Marine the Vessel immediately becomes the Captors, and the Pirates may be forthwith executed, without any Solemnity of Condemnation.

A Ship is riding at Anchor, and the Mariners part in their Ship-Boat, and the rest on Shore, so that none are left in the Ship; yet, if a Pirate shall
attack

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attack her, and commit a Robbery, the same is Piracy, 14 *Ed.* 3. If a Pirate attacks a Ship, and only takes away some of the Men, in order to the selling them for Slaves, this is Piracy by the Law Marine. And if a Pirate make an Attack on a Ship, and the Master, for the Redemption, shall give his Oath to pay a certain Sum of Money, though there be no taking, yet is the same Piracy by the Law Marine; but by the Common Law there must be an actual Taking, though it be but the Value of a Penny, as in Case of Robbery on the Highway.

By Stat. 11 & 12 *W.* 3. if any natural-born Subjects, or Denizens of *England*, commit Piracy, or any Act of Hostility against any of his Majesty's Subjects at Sea, under Colour of any Commission or Authority from any foreign Prince or State, or Person whatsoever, such Offenders shall be adjudg'd Pirates.

If any Commander or Master of a Ship, Seaman, or Mariner, turn Pirate, or give up his Ship, &c. to Pirates, or combine to yield up, or run away with any Ship; or Seaman shall lay violent Hands on his Commander, or endeavour a Revolt in the Ship, he shall be adjudg'd a Pirate, and suffer accordingly.

All Persons who shall set forth any Pirate, or be aiding and assisting to any Person committing Piracy, or shall conceal such Pirate, or receive any Vessel or Goods piratically taken, shall be adjudg'd accessory to such Piracy, and suffer as Principals.

And if any Person shall discover a Combination for running away with, or destroying any Ship, a Reward of ten Pounds shall be given for every Vessel of 100 Tuns, or under, and 15*l.* for every Vessel of a greater Burthen, to be paid by the Captain, Commander, or Master of the Ship, at the Port where the Wages is agreed to be satisfied.

By

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By 8 *Geo. c. 24.* Masters of Ships trading with Pirates, or furnishing them with Stores, and Persons corresponding with Pirates, are adjudged Guilty of Piracy, and to suffer Death, forfeit their Lands, &c. And Ships fitted out with Design to trade and correspond with Pirates, and the Goods on Board, shall be forfeited.

Masters of Ships, and Seamen, of Ships carrying Guns, attack'd by Pirates, not defending their Ships, shall forfeit their Wages, and be imprison'd fix Months. And where Seamen shall be wounded in fighting against Pirates, they are by this Act to be admitted into *Greenwich Hospital*, &c.

When an *English Ship* shall have been defended by Fight against Pirates, and any of the Officers or Seamen shall be kill'd or wounded, the Judge of the Admiralty, or his Surrogate, or the Mayor, or chief Officer in an Out-port, assisted by four substantial Merchants, may, by Process, levy upon the Owners of such Ship, &c. a Sum not exceeding *2l. per Cent.* of the Value of the Freight, Ship, and Goods, so defended, to be distributed among the Officers and Seamen of the said Ships, or the Widows and Children of the Persons kill'd.

If a Master of a Ship, by his own Folly and Negligence, is surpris'd by a Pirate, who takes him Prisoner; in this Case, the Owners of the Ship and Cargo are not oblig'd to contribute to his Redemption; but if a Master does his utmost, and is taken by Force, the Owners and the Cargo are liable to contribute, when he is become a Slave to the Captors, for the Ransom of the Vessel. *Leg. Rhod.*

If Subjects of a Prince in Enmity with the Crown of *England*, enter themselves Sailors on Board an *English Pirate*, having several *Englishmen* aboard, and a Robbery is committed by them, who are afterwards taken, it is Felony in the *English*, but not in the Strangers. (This in ancient Times

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Times was Treason in the *English*, and Felony in the Strangers). And if an *Englishman* commits Piracy upon the Subject of any Prince or State in Amity with the Crown of *England*, they are within the Stat. 28 H. 8.

If the Subjects of any Nation or Kingdom, in Amity with *England*, shall commit a Piracy on the Ships or Goods of the *English*, the same is Felony, and punishable by this Statute. And Piracy committed by the Subjects of *France*, or of any other Country in Amity with us, upon the *British* Seas, are punishable properly by the Crown of *England* only.

Murder and Robbery, &c. committed by Pirates at Sea, may be heard and determined in any County of *England* by Commission, as if the Offence was done on Land. And the Commission is to be directed to the Lord High Admiral, &c. Stat. 27 H. 8. c. 4.

By Stat. 12 & 13 W. 3. c. 7. all Piracies, Felonies, and Robberies, committed in or upon the Sea, or in any Haven, River, Creeks, or Place where the Admiral hath Jurisdiction, may be try'd at Sea, or upon the Land, in any of his Majesty's Islands, Plantations, Colonies, &c. appointed for that Purpose, by Commission under the Great Seal of *England*, or Seal of the Admiralty, directed to such Commissioners as his Majesty shall think fit, who may commit the Offenders, and call a Court of Admiralty thereupon, to consist of seven Persons at the least.

For Want of seven, any three of the Commissioners may call others, as therein is mentioned. And the Persons so assembled, may proceed according to the Course of the Admiralty, give Sentence of Death, and award Execution of the Criminals, who shall thereupon forfeit their Lands, Goods, and Chattels.

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The Commissioners shall have the sole Power of trying the said Crimes within the Colonies and Plantations in *America*, govern'd by Proprietors, or under Grants or Charters from the Crown; and may issue their Warrants for apprehending such Pirates, &c. and their Accessaries, in order to their being try'd there, or sent into *England*.

Commissions for Trial of the said Offences, sent to any Place within the Jurisdiction of the Cinque-Ports, shall be directed to the Lord-Warden of the said Cinque-Ports, or his Lieutenant, and such Persons as the Lord Chancellor shall appoint; and the Trial be by the Inhabitants of the same Ports.

This Act does not alter the Offence, but leaves it as it was before, *viz.* Felony only by the Civil Law, but giveth a Trial by the Common Law, and inflicteth Pains of Death, as if they had been attainted of any Felony done upon the Land.

A Man attainted on the Statute 9 *E. 4.* forfeits his Lands and Goods; but there works no Corruption of Blood by Virtue of that Attainder; nor can there be any Accessary of Piracy by the Law of this Realm; but if it happens, that there is an Accessary upon the Sea, such Accessary may be punished by the Civil Law, before the Lord Admiral; but he may not be punish'd by Virtue of this Act of Parliament, by Reason it extends not to Accessaries, to make the Offence Felony.

A Pardon of all Felonies does not extend to Piracy; for the same ought to be specially nam'd, this being a special Offence, and no Felony in the Eye of the Law of the Land, but only by the Civil Law.

If a Man is apprehended on Suspicion of Piracy, and a Bill is preferr'd against him, whereupon the Jury find *Ignoramus*; if the Court of Admiralty will not discharge him, the Court of King's Bench will grant a *Habeas Corpus*; and, if there be
good

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good Cause, discharge the Party, or take Bail for him: But if the Court has a Suspicion that the Party is guilty, perhaps they may remand him; and therefore, in all Cases where the Admiralty have an original, or a concurrent Jurisdiction, the Courts at *Westminster* will be well informed before they grant any Procefs. 13 *Jac. in B. R. Marsh's Case.* 3 *Bulst.* 27.

Pirates are always excepted in general Pardons.

A Passport for Shipping.

TO all to whom these Presents shall come, Greeting.
Thomas, Earl of P——, Lord High Admiral of England, or we A. B. C. D. &c. Esqs; Lords Commissioners for executing the Office of Lord High Admiral, or we the Commissioners or principal Officers of the Customs in the City or Port of, &c. do testify and make known, that E. F. Master or Commander of the Ship called the *George*, hath appear'd before us, and declar'd by solemn Oath, That the said Ship or Vessel, containing about one hundred Tuns, of which he is at present Master, as aforesaid, doth belong to the Inhabitants of, &c. within the Dominions of the Kingdom of *England*. And in Regard it would be most acceptable to us, that the said Master or Commander be assisted in his just and lawful Affairs, we do hereby request you, and every of you, wheresoever the said Master or Commander shall arrive with his Ship, and the Goods laden on Board, and carry'd in her, that you will receive him courteously, and use him kindly; and admit him, upon paying the lawful and usual Customs, and other Duties, to enter into, remain in, and pass from your Ports, Rivers, and Dominions, and there to enjoy all Kind of Right of Navigation,
O on,

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on, Traffick, and Commerce, in all Places where he shall think fit, without any Interruption; which we shall most willingly and readily acknowledge, upon all Occasions. *In Testimony* and Confirmation whereof, we have, with our Hand, sign'd these Presents, and caused them to be seal'd with our Seal. *Dated, &c.*

A Copy of Letters Patent granted by King Charles the Second, for special Reprisals against the States of Holland, and their Subjects.

CHARLES, &c. *Whereas* our loving Subjects Sir William Courten, Kt. deceased, and his Partners, Anno 1643, by the Depredation and hostile Act of one Gailand, Commander in Chief of two Ships belonging to the *East-India* Company of the *Netherlands*, was between Goa and *Maccas*, in the *Streights of Malacca*, depriv'd, and most injuriously spoil'd of a certain Ship call'd the *Bona Esperanza*, and of her Tackling, Apparel, and Furniture, and all the Goods and Lading in her, upon a very hopeful trading Voyage to *China*, which were carried to *Batavia*, and there all, *de Facto*, without due Process of Law, confiscated; and also in the same Year, another laden Ship of our said Subject, called the *Henry-Bonadventure*, being come on Ground near the Island *Mauritius*, was there, both Ship and Goods, seized upon by some of the Officers and Ministers, and others under the Command of the said *East-India* Company, and utterly detained from the right Owners. *And whereas* the said Sir William Courten, and his Assigns, in his Life-time, used all possible Endeavours to recover the said Ships and Goods, and to procure farther

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farther Justice against the Malefactors, and yet could obtain no Restitution or Satisfaction; whereby they came to be much distress'd, and utterly undone in their Estate and Credit. *And* that thereupon, and upon the most humble Supplication and Addressees of *Francis* Earl of *Shrewsbury*, and *William Courten*, Esq; Grandchild and Heir of the said Sir *William* deceased, Sir *John Ayton* and Sir *William Turner*, Knights, and *George Carew* and *Charles Whitaker*, Esqs; (on the Behalf of themselves and divers others interested in the said two Ships, *Bona Esperanza* and *Henry-Bonadventure* and in the Estates of the said Sir *Will. Courten* deceased,) Sir *Edw. Littleton*, Bart. and Sir *Paul Pindar*, Kt. that he would take their Case into our Princely Consideration. *We, out of a just Sense* we then had and still have of their unjust Sufferings, both by our own Letters, under our Sign Manual, to the States General of the *United Provinces*, and by Sir *George Downing*, Knight and Baronet, our Envoy Extraordinary, to whom we gave special Command so to do, requir'd Satisfaction to be made, according to the Rules of Justice, and the Amity and good Correspondence which we then desired to conserve with them firm and inviolable. *And whereas*, after several Addressees made to the States General by our said Envoy, and nothing granted effectual for Relief of our said Subjects, (whom we take our selves in Honour and Justice concern'd to see satisfied and repaid) we lately commanded the said Sir *George Downing* to intimate and signify to the said States, that we expected their final Answer, concerning Satisfaction to be made for the said Ships and Goods, by a Time then prefixed, and since elaps'd; that we might so govern ourselves thereupon, that our aforesaid Subjects might be reliev'd according to Right and Justice; and yet no satisfactory Answer hath been given; so that we cannot but apprehend it to be not only a fruitless Endeavour,

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but a prostituting of our Honour and Dignity to make farther Application, after so many Denials and Slightings. *And whereas, John Exton, Doctor of Laws, Judge of our High Admiralty Court of England, upon our Command, to certify to us the Value of the Losses and Damages sustain'd by the said Sir William Courten and Partners, whose Interest is now vested in our loving Subjects Sir Edmund Turner, Knt. and George Carew, Esq; and Partners, hath, upon full Examination and Proof thereof made by Witnesses in our High Court of Admiralty, reported and certified under his Hand, that the same do amount to the Sum of one hundred, fifty-one thousand, six hundred and twelve Pounds. Now know ye, That for a full Restitution to be made to them for their Ships, Goods and Merchandises, of which the said Sir William Courten, Knt, and Partners, and the Assigns of the said Sir William Courten, Knt, and Partners, were so despoil'd, as aforesaid, with all such Costs and Charges as they shall be at for the Recovery of the same. We, by the Advice of our Privy Council, have thought fit, and by these Presents do grant Licence and Authority, under our Great Seal of England, unto our said Subjects, Sir Edmund Turner and George Carew, their Executors, Administrators, and Assigns, for and on the Behalf of themselves, and other Persons interested, as aforesaid, to equip, victual, furnish, and to set to Sea from Time to Time, such, and so many Ships and Pinnaces as they shall think fit: Provided always that there be an Entry made and recorded in the Admiralty-Courts, of the Names of all Ships and Vessels, and of their Burden and Ammunition, and for how long Time they are victuall'd; And also the Name of the Commander thereof, before the same or any of them be set forth to Sea; and with the said Ships and Pinnaces by Force of Arms to set upon, take, and apprehend any of the Ships, Goods,*

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Goods, Money, and Merchandises belonging to the States General, or any of the Subjects inhabiting within any of their Dominions or Territories, wheresoever the same shall be found, and not in any Port or Harbour in *England* or *Ireland*, unless it be the Ships and Goods of the Parties that did the Wrong. And the said Ships, Goods, Money, and Merchandises, being so taken, and brought into some Port of our Realms and Dominions, an Inventory thereof shall be taken by Authority of our Court of Admiralty, by the Judge or Judges thereof for the Time being, upon Proofs made before him or them, that the said Ships, Goods, Wares, Merchandises, or Money, did belong to the States General, or any of their Subjects as aforesaid: That they shall be lawful Prize to the said Sir *Edmund Turner* and *George Carew*, their Executors, Administrators, and Assigns, as aforesaid, to retain and keep in their or any of their Possessions, and to make Sale and dispose thereof in open Market, or howsoever else, to their and every of their best Advantage and Benefit, in as ample Manner as at any Time heretofore hath been accustom'd by Way of Reprizal; and to have and enjoy the same as lawful Prize, and as their own proper Goods: *So that* neither any Captain, Master, nor any of their Company, that shall serve in Person, or shall promote and advance the said Enterprize in Manner and Form aforesaid, shall in any Manner of wise be reputed or challenged as an Offender against any of our Laws. *And* that it shall be lawful for all Manner of Persons, as well our Subjects as any other, to buy the said Ships, Goods, and Merchandises so taken and apprehended by the said Captains, Masters, and others, and adjudg'd as aforesaid, without any Damage, Loss, Hindrance, Trouble, Molestation, or Incumbrance to befall the said Buyers, or any of them, in as ample and lawful Manner, as if the Ships, Goods, Wares, and

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Merchandises, had been come and gotten by lawful Traffick of Merchants, or of just Prizes in the Time of open War. *Provided always*, that all Ships, Goods, and Merchandise, taken by Virtue of this our Commission, shall be kept in Safety, and no Part of them wasted, spoil'd, or diminish'd, or the Bulk thereof broken, until Judgment hath first past as aforesaid, that they are the Ships and Merchandise of the States General, or some of their Subjects, as aforesaid. *And* if by Colour of this our Commission there shall be taken any Ships, Goods, or Merchandises of any of our loving Subjects, or the Subjects of any Prince or State in good League or Amity with us (except the States General, or their Subjects, as aforesaid,) and the Goods therein laden, sold, and imbezil'd, or diminished, or the Bulk thereof broken in any Place, before they shall be adjudg'd to belong to the States General, or some of their Subjects, as aforesaid; that then this Commission shall not be of sufficient Authority to take the said Ships, Goods, and Merchandises, or to warrant or save harmless such as shall receive, buy, or intermeddle therein, but that both the Prizes so taken, and the said Ships of War, shall be confiscated to our Use. *And farther* we do hereby declare, That it is our Will and Pleasure, that this our Commission shall remain in full Force and Power, to all Intents and Purposes, until the said Sir *Edmund Turner* and *George Carew*, their Executors, Administrators, and Assigns, as aforesaid, shall, by Virtue thereof, have by Force of Arms apprehended, taken, seised, recovered, and received from the said States General, or their Subjects, one hundred fifty-one thousand six hundred and twelve Pounds, according to the Appraisement to be made by such Appraisers upon Oath, nominated and authoris'd in our said Court of Admiralty, (of such Ships, Goods, Wares, or Merchandises, as shall be taken from the said States General, or

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any of their Subjects,) by Virtue of this Commission; or shall otherwise receive Satisfaction of the Debt aforesaid, by Composition to be made between those of the *East-India* Company of the *Netherlands*, and the said Sir *Edmund Turner* and *George Carew*, their Executors, Administrators, and Assigns, as aforesaid; and notwithstanding the present Difference between us and the said States General, depending upon general Reprizes, may be agreed and compos'd; and that in the Interim a Peace and good Correspondence may be renewed between us and the said States General. In which Case, nevertheless, it is our Will and Pleasure, that in the Execution of this our Commission, no Violence shall be done to the Persons of the said Subjects of the said States General, but only in Case of Resistance; and that after in cold Blood, the Subjects of the States General, if hurt or wounded, shall be used with all Offices of Humanity and Kindness, &c.

An Abstract of an Act of Parliament made in the late Reign, for securing the Trade of this Kingdom by Convoys, and relating to Prizes, &c.

ENacted, That for the better preserving such Ships as shall be employed in the Trade of *Great Britain*, that over and above the Ships of War for the Line of Battel, &c. Forty-three Ships shall be employed as Cruisers, viz. six Third-Rates, twenty Fourth-Rates, thirteen Fifth-Rates, and four Sixth-Rates; to cruise in such Stations as shall be directed by the Lord High Admiral, &c. and shall be careen'd, at least, three Times a Year; and the Seamen on Board such Ships shall not be

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turn'd over to any Ships, but such only as are appointed for Cruising.

Nothing in this Act shall restrain the Lord High Admiral of *Great Britain*, &c. from directing any of the said Ships to be employed in the Line of Battel (in Case of Necessity) on this Side Cape *Finister*; but without such Direction, such Ships shall be always employ'd as Home-Cruisers, except when Careening, &c.

The Lord High Admiral, &c. is to appoint the Commissioners of the Navy, or some one or more Persons, to reside at such Places as her Majesty shall appoint, to superintend and over-see every Thing relating thereto, and that they have Things necessary when forced by bad Weather into Port, or come in to careen, &c. and so soon as refitted, shall order them to Sea again.

The Commissioner of the Navy in the Out-Ports, &c. shall send up to the Lord High Admiral, &c. within eight Days after the Meeting of every Parliament, an Account digested into Columns, of the Time when any one of the said Ships sail'd out of Port, when she came in, with the Number of Days cast up, she was out on Duty; and an Account how often, and Times when, careen'd every Year; the Reasons of her putting into Port, and Time, and Reasons of her Stay there; all which shall be laid before the Houses of Parliament, within the said eight Days after the commencing of every Session.

The Lord High Admiral, &c. is to appoint the said Number of Men of War, of the Rates aforesaid, to be Cruisers and Convoys on this side Cape *Finister*, yearly and every Year during the War, between the First of *November* and the First of *December*; and if any be taken or lost, shall appoint others of the same Rate, &c. in their Room.

Any Ship of War, Privateer, &c. taken as Prize by any of Her Majesty's Men of War, &c. and

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and adjudg'd Prize, the Officers and Seamen on Board such a Ship, &c. shall, after Condemnation, have the sole Property in the Prize to their own Use, to be sold by such Persons as shall be appointed by the Commanders, &c. which shall take such Prize, or the major Part of them; the whole to be divided, &c. according to the Proportion directed by Her Majesty's Proclamation to be issued out for that Purpose.

And if Her Majesty, or the Lord High Admiral, &c. shall take into the Service any such Ship so taken and condemned, then such Ship, with her Stores, &c. shall be apprais'd by Officers appointed by Her Majesty, and by the like Number of Persons appointed by the Majority of the Commanders, &c. that took the Prize; and on producing such Appraisement and Certificate of Delivery of such Ship, &c. to the Commissioners of the Navy, they shall make forth a Bill for the full Value, within fifteen Days, for Payment, according to the Course of the Navy, to be divided as aforesaid.

And for a farther Encouragement, there shall be paid by the Treasurer of the Navy, upon Bills to be made forth by the Commissioners of the Navy, to the Officers, Seamen, and others, actually on Board such Ship in such Action, 5^s for every Man which was living on Board such Ship, so taken, at the Beginning of the Engagement; the Numbers to be prov'd by the Oaths of three or more Officers, &c. belonging to the Enemies Ship, before the Mayor, &c. of the Port where such Prize shall be brought in; which Oaths the Mayor, &c. is hereby empower'd to administer, and shall grant a Certificate thereof without Fee, directed to the Commissioners of the Navy; upon producing whereof, together with a Copy of the Condemnation by the High Court of Admiralty, to the said Commissioners, directed to the Treasurer, &c. it shall

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shall be paid according to the Course of the Navy, and divided as Her Majesty's Proclamation, to be issued out, shall direct.

Nothing herein shall exempt any Ships, Goods, &c. so taken as Prize, from Payment of Customs, &c. but on bringing such Goods, &c. into any Port of *Great Britain*, they shall be unladen, &c. in the Presence of the Officers for such Port ; and the Goods, &c. put into Her Majesty's Warehouse, lock'd up with three Locks, the Key of one to be kept by the Collector, another by the Comptroller, and the other by an Agent employed by the Captors, till sold ; who may bring Appraisers, &c. to view, &c. and when sold, the Persons buying shall pay the Customs before Delivery, &c.

That all Appraisements and Sales of such Ships, Goods, &c. shall be made by Agents nominated in equal Numbers by the Commander, Officers, and Ship's Company ; if the Commander, &c. shall nominate one or more, then the Officers, intituled thereto, or the Majority of them, shall nominate the like Number, and all the Ship's Company the like Number, to act in their Behalf.

After the Sale of such Prize, &c. publick Notice shall be given by the Agents, of the Day appointed for the Payment of the Shares to the Captors aforesaid ; after which, if any Mens Shares remain in the Hands of the Agents, either due to such as shall die, or run from the Service, or not be legally demanded within three Years, such Shares, so remaining, &c. shall go to *Greenwich Hospital*.

And as well the Bills to be made for the Value of such Prizes taken in Her Majesty's Service, as the Bills for Bounty, shall be made payable to such Persons as shall be appointed to dispose of such Prizes ; and the Shares of such Captors, if not legally demanded within three Years after publick Notice given, shall go to *Greenwich Hospital*.

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If any Commander, &c. shall break Bulk on Board, or imbezil any Goods, &c. belonging to such Ship so taken, he shall forfeit treble the Value of the Goods, &c. one third Part to *Greenwich Hospital*, and the other two Thirds to the Informer.

C H A P. VIII.

Treaties of Commerce made and entered into by the Crown of England, with foreign Nations, from the Beginning of the Reign of King Charles the Second, to this Time.

A Treaty Marine, between the Most Serene and Mighty Prince Charles the Second, by the Grace of God King of England, Scotland, France, and Ireland, Defender of the Faith, &c. and the High and Mighty Lords the States-General of the United Netherlands, to be observed throughout all and every the Countries and Parts of the World, by Sea and Land; concluded at London the 1st Day of December 1674.

Art. I. **T**HAT it shall and may be lawful for all and every the Subjects of the most Serene and Mighty Prince, the King of *Great Britain* aforesaid, with all Freedom and Safety, to sail, trade, and exercise any Manner of Traffick in all those Kingdoms, Countries, and Estates, which are, or at any Time hereafter shall be in Peace, Amity, or Neutrality with his said Majesty; so that they shall not be any Ways hinder'd or molested in their Navigation or Trade by the military Forces, nor by the Ships of War, or any other Kind of Vessels

Vessels whatsoever, belonging either to the High and Mighty Lords the States General of the *United Netherlands*, or to their Subjects, upon Occasion or Pretence of any Hostility or Difference which now is, or shall hereafter happen between the said Lords the States General, and any Princes or People whatsoever in Peace, Amity, or Neutrality with his said Majesty: And likewise, that it shall and may be lawful for all and every the Subjects of the said High and Mighty Lords the States General of the *United Netherlands*, with all Freedom and Safety to sail, trade, and exercise any Manner of Traffick in all those Kingdoms, Countries, and Estates, which are, or at any Time hereafter shall be in Peace, Amity, or Neutrality, with the aforesaid Lords the States; so that they shall not be any Ways hindered or molested in their Navigation or Trade, by the military Forces, or by the Ships of War, or any other Kind of Vessels whatsoever, belonging either to the most Serene and Mighty King above-mentioned, or to his Subjects, upon Occasion or Pretence of any Hostility or Difference, which now is, or shall hereafter happen, between his said Majesty, and any Princes or People whatsoever, in Peace, Amity, or Neutrality with the said Lords the States.

II. Nor shall this Freedom of Navigation and Commerce be infring'd, by Occasion or Cause of any War, in any Kind of Merchandises, but shall extend to all Commodities which shall be carry'd in Time of Peace; those only excepted which follow in the next Article, and are comprehended under the Name of Contraband.

III. Under this Name of Contraband, or prohibited Merchandises, shall be comprehended only Arms, Pieces of Ordnance, with all Impliments belonging to them, Fire-Balls, Powder, Bullets, Pikes, Swords, Lances, Spears, Halberds, Guns, Mortar-pieces, Petards, Grenado's, Musket-Rests, Bande-

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Bandeliers, Salt-Peter, Muskets, Musket-shot, Helmets, Corislets, Breast-Plates, Coats of Mail, and the like Kind of Armature, Soldiers, Horses, and all Things necessary for the Furniture of Horses, Holsters, Belts, and all other warlike Instruments whatsoever.

IV. These Merchandises following shall not be reckon'd among prohibited Goods, *viz.* All Kind of Cloth, and all other Manufactures woven of any Kind of Wool, Flax, Silk, Cotton, or any other Materials; all Sorts of Cloathing and Vestments, together with the Materials whereof they use to be made; Gold and Silver, as well coin'd as not coin'd, Tin, Iron, Lead, Copper, and Coals; as also Wheat, Barley, and all other Kinds of Corn or Pulse; Tobacco, and all Kind of Spices; salted and smoak'd Flesh, salted and dry'd Fish; Butter and Cheese, Beer, Oils, Wines, Sugars, and all Sorts of Salt; and, in general, all Provision which serves for the Nourishment and Sustenance of Life; likewise all Kind of Cotton, Hemp, Flax, and Pitch; and Ropes, Sails, and Anchors; also Masts and Planks, Boards and Beams of what Sort of Wood soever, and all other Materials requisite for the building or repairing of Ships; but they shall be wholly reputed amongst free Goods, even as all other Wares and Commodities which are not comprehended in the next precedent Article; so that the same may be freely transported, and carried by the Subjects of his said Majesty, even unto Places in Enmity with the said States; as also, on the other Side, by the Subjects of the said States, to Places under the Obedience of the Enemies of his said Majesty; except only Towns or Places besieg'd, environ'd, or invested.

V. And that all Manner of Differences and Contentions on both Sides, by Sea and Land, may from henceforth cease, and be utterly extinguish'd, it is agreed, That all Kind of Ships and Vessels whatsoever

ever, belonging to the Subjects of his said Majesty, entering or being enter'd into any Road or Port under the Obedience of the Lords the States, and purposing to pass from thence, shall be only oblig'd to shew unto the Officers acting in the Ports of the said States, or to the Captains of the States Ships, or of private Men of War, (if any happen there to be) their Passport, commonly called a *Sea-Brief*; nor shall any Money, or any Thing else, be exacted from them under that Pretence: But if any Ship belonging to the Subjects of his Majesty of *Great Britain*, shall, in the open Sea, or elsewhere out of the Dominions of the said States, meet the Ships of War of the said Lords the States, or private Men of War of their Subjects, the said Ships of the said Lords the States, or of their Subjects, shall keep at a convenient Distance, and only send out their Boat; and it shall be lawful for them only with two or three Men, to go on Board the Ships and Vessels of the Subjects of his Majesty, that the Passport, or Sea-Brief, of the Propriety thereof, according to the Form hereafter specified, may be shewn to them by the Captain or Master of such Ship or Vessels belonging to the Subjects of his Majesty; and the Ship which shall shew the same, shall freely pass, and it shall not be lawful to molest, search, detain, or divert the same from her intended Voyage: And all the Subjects of the Lords the States, shall enjoy, in all Things, the same Liberty and Immunity, they, in like Manner, shewing Passports, (or Sea-Briefs) made according to the Form prescrib'd at the End of this Treaty.

VI. But if any Ship or Vessel belonging to the *English*, or other Subjects of his Majesty, shall be met making into any Port in Enmity with the Lords the States; or, on the other Hand, if any Ship belonging to the *United Provinces* of the *Netherlands*, or other Subjects of the Lords the States, shall be met in her Way making into any Port under

der the Obedience of the Enemies of his said Majesty, such Ships shall shew, not only a Passport, (or Sea-Brief) wherewith she is to be furnished, but also her Cocquets, expressing the Contents of the Goods on Board, given in the usual Form by the Officers of the Customs in the Port from whence she came; whereby it may be known whether she is laden with any Merchandises prohibited by the third Article of this Treaty.

VII. And if by shewing the abovesaid Cocquets expressing the Contents of the Goods on Board, given in the usual Form by the Officers of the Customs in the Port from whence she came, (concerning the shewing whereof it is above agreed) either Party shall discover any Kind of Merchandises, which in the third Article of this Treaty are declared to be contraband, or prohibited, consigned to any Port under the Obedience of their Enemies, it shall not be lawful to open the Hatches of such Ship, in which the same shall happen to be found, whether she belongs to the Subjects of his Majesty, or of the Lords the States; nor to unlock or break open Chests, Mails, Packs, or Casks, in the same, nor to convey away any the least Part of the Merchandises, before the Whole be first landed in the Presence of the Officers of the Admiralty, and inventory'd; neither shall it be any ways lawful to sell, exchange, or otherwise to alienate the same, until such prohibited Goods are rightfully and lawfully proceeded against, and that the Judges of the Admiralty have by their respective Sentences confiscated the same: Provided always, that as well the Ship it self, as the rest of the Commodities found in the same, which by this Treaty are to be reputed free, shall not, upon Pretence of their being infected by such prohibited Goods, be detain'd, much less confiscated for lawful Prize: But if not the Whole, but a Part only of the Lading consists of contraband or prohibited Commo-

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Commodities, and that the Master of the Ship shall be willing and ready to deliver them to the Captor who seized the same, in that Case, the Captor shall not compel the Ship to go out of her Course, to any Port he thinks fit, but shall forthwith dismiss her, and upon no Account hinder her from freely prosecuting her design'd Voyage.

VIII. It is farther agreed, That whatsoever shall be found laden by his Majesty's Subjects, upon any Ship whatsoever belonging to the Enemies of the Lords of the States, altho' the same be not of the Quality of contraband Goods, may be confiscated; but, on the contrary, all that which shall be found in the Ships belonging to the Subjects of his Majesty, shall be accounted clear and free, altho' the whole Lading, or any Part thereof, by just Title or Propriety shall belong to the Enemies of the Lords the States; except always contraband Goods, which being intercepted, all Things shall be done according to the Meaning and Direction of the precedent Articles: And by the same Reason, whatsoever shall be laden by the Subjects of the Lords the States, in any Ship whatsoever belonging to the Enemies of his Majesty, altho' the same be not of the Quality of contraband Goods, may be confiscated; but on the other Side, all that which shall be found in the Ships belonging to the Subjects of the Lords the States, shall be accounted clear and free, altho' the whole Lading, or any Part thereof, by just Title of Propriety, shall belong to the Enemies of his Majesty; except always contraband Goods, which being intercepted, all Things shall be done according to the Meaning and Directions of the precedent Articles. And lest any Damage should, by Surprise, be done to the one Party who is in Peace, when the other Party shall happen to be engaged in War, It is provided and agreed, that Ships belonging to the Enemies of the one Party, and laden with Goods of the Subjects
 2 of

of the other Party, shall not be infected, or the Goods render'd liable to Confiscation, in Case they were laden before the Expiration of the Terms and Times hereafter mention'd, after the Declaration or Publication of any such War, viz. if the Goods were laden in any Port or Place between the Places or Limits called the *Soundings* and the *Naz* in *Norway*, within the Space of six Weeks after such Declaration; of two Months between the said Place, the *Soundings*, and the City of *Tangier*; and of ten Weeks in the *Mediterranean Sea*; or within the Space of eight Months in any other Country or Place of the World: So that it shall not be lawful to confiscate the Goods of the Subjects of his Majesty taken or seized in any Ship or Vessel whatsoever of any Enemy of the Lords the States, upon that Pretence; but the same shall be, without Delay, restor'd to the Proprietors, unless they were laden after the Expiration of the said Terms or Time respectively; but so that it may not be lawful for them afterwards to carry to Enemies Ports the said Merchandises which are called contraband, and for the Reason aforesaid shall not be liable to Confiscation: Neither, on the other Side, shall it be lawful to confiscate Goods of the Subjects of the Lords the States, taken or seized in any Ship or Vessel whatsoever of an Enemy of his Majesty, upon that Pretence; but the same shall be forthwith restor'd to the Proprietors thereof, unless they were laden after the Expiration of the said Terms of Time respectively: But so, that it may not be lawful for them afterwards to carry to Enemies Ports, the said Merchandises which are called contraband, and for that Reason aforesaid shall not be liable to Confiscation.

IX. And the more to assure the Subjects of his Majesty and of the said States, that no Injury shall be offer'd to them by the Ships of War, or private Men of War, of either Side, all the Cap-

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tains of the Ships, as well of his Majesty as of the said States, and all their Subjects who shall set out private Men of War, and likewise their privileg'd Companies, shall be enjoin'd not to do any Injury or Damage whatsoever to the other; which if they do, they shall be punish'd, and moreover be liable to satisfy all Costs and Damages, by Restitution and Reparation, upon Pain and Obligation of Person and Goods.

X. For this Cause all the Commanders of private Men of War, shall from henceforth be oblig'd, before they receive their Commissions, to enter, before a competent Judge, good and sufficient Security, by able and responsible Men, who have no Part or Interest in such Ship, in the Sum of 1500*l. Sterling*, or sixteen thousand five hundred Guilders; and when they have above one hundred and fifty Men, then in the Sum of three thousand Pounds *Sterling*, or three and thirty thousand Guilders, that they will give full Satisfaction for any Damages or Injuries whatsoever, which they, or their Officers, or others in Service, shall commit in their Courses at Sea, contrary to this present Treaty, or any other whatsoever, between his Majesty and the said States, and upon Pain of Revocation and Annulling their said Commissions; in which it shall be always inserted, that they have given such Security as abovesaid: And likewise it is agreed, That the Ship it self shall be also liable to make Satisfaction for Injuries and Damages done by her.

XI. His Majesty and the said States being desirous that the Subjects of each other may be mutually treated in all Countries under their Obedience respectively, with the like Kindness as their own Subjects, will give all necessary and effectual Orders, that the Judgments upon Prizes taken, be given according to the Rule of Justice and Equity, by Judges beyond all Suspicion, and not any way concern'd in the Case under Debate: And his Majesty

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jeſty and the ſaid States will likewise give ſtrict Orders, that all Sentences already given, and which ſhall be hereafter given, be (according to the Tenor thereof) duly put in Execution, and obtain their Effect.

XII. And whenſoever the Ambaſſadors of the ſaid Lords the States, or any other their publick Miniſters, reſident at the Court of his moſt Serene Maſteſty of *Great Britain*, ſhall complain of the Injuſtice of Sentences which have been given, his Maſteſty will cauſe the ſame to be review'd and examin'd in his Council, that it may appear whether the Orders and Precautions preſcrib'd in this Treaty have been obſerved, and have had their due Effect; and will alſo take Care that the ſame be fully provided for, and that Right be done to the Party complaining, within the Space of three Months: And likewise, when the Ambaſſadors, or other publick Miniſters of his Maſteſty, reſident with the States General, ſhall complain of the Unjuſtneſs of Sentences, the ſaid States will cauſe a Review and Examination thereof to be made in the Aſſembly of the States General, that it may appear whether the Orders and Precautions preſcrib'd in this Treaty have been obſerv'd, and have had their due Effect: And they will likewise take Care that the ſame be fully provided for, and that Right be done to the Party complaining, within the Space of three Months: Nevertheless, it ſhall not any Ways be lawful to ſell or unlade the Goods in Controverſy, either before the Sentence given or after it, during the Review thereof on either Side, unleſs it be with the Conſent of the Parties intereſted.

XIII. A Suit being commenced between the Takers of Prizes on the one Part, and the Claimers thereof on the other, and a Sentence or Decree being given for the Party reclaiming the ſaid Sentence or Decree (upon Security given) ſhall be

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put in Execution, notwithstanding the Appeal made by him that took the Prize; which shall not be observed, in Case the Sentence shall be given against the Claimers.

XIV. And whereas the Masters of Merchant-Ships, and likewise the Mariners and Passengers, do sometimes suffer many Cruelties and barbarous Usages when they are brought under the Power of Ships which take Prizes in Time of War, the Takers, in an inhuman Manner, tormenting them, thereby to extort from them such Confessions as they would have to be made; it is agreed, That both his Majesty and the Lords the States General shall, by the severest Proclamations, or Placaerts, forbid all such heinous and inhuman Offences; and as many as they shall by lawful Proofs find guilty of such Acts, they shall take Care that they be punished with due and just Punishments, and which may be a Terror to others; and shall command that all the Captains and Officers of Ships, who shall be proved to have committed such heinous Practices, either themselves, or by instigating others to act the same, or by conniving while they were done, shall (besides other Punishments to be inflicted proportionably to their Offences) be forthwith depriv'd of their Offices respectively; and every Ship brought in as Prize, whose Mariners or Passengers have suffered any Torture, shall forthwith be dismiss'd and freed, with all her Lading, from all farther Examination and Proceeding against her, as well judicial as otherwise.

XV It is also agreed, that the like Severity of Punishment shall be inflicted upon those, who, contrary to the Meaning of the one and twentieth Article of the Treaty of Peace concluded at *Breda*, shall take Commissions from Enemies, to seise the Ships of either Ally, (or Party) contrary to what is provided in the said Article.

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XVI. Lastly, It is agreed and concluded, That this present Treaty, and all and singular the Things therein contained, shall be, with all convenient Speed, on both Sides, ratify'd and confirm'd; and that the Ratifications thereof shall within two Months from the Date hereof, be rightly and reciprocally exchange'd between both Parties: And also that the said Treaty shall within one Month after such exchanging of the Ratifications, be deliver'd in due and authentick Form to the Governors of the *English East-India* and *African* Companies, and to the Directors of the *Dutch East* and *West India* Companies; and shall, with the first Conveniency, be also sent by his said Majesty, and by the said Lords the States, to their respective Governors and Commanders in Chief of their Colonies and Plantations in every Part of the World out of *Europe*, to the End that it may be by them, and all others within their Dominions and under their Power, punctually observ'd and fulfill'd.

In a Treaty concluded between King Charles the Second, soon after the Restoration, and the States of Holland, there is contain'd the following Article.

It is likewise agreed, that the Ships and Vessels of the said United Provinces, as well Men of War as others, meeting any of the Ships of War of *Great Britain*, within the Extent of the *British* Seas, shall strike their *Flags* and lower their *Main-Top-Sails*, in the same Manner that it has been observ'd in any former Time whatsoever.

Articles relating to Commerce and Navigation, between King Charles the Second and the States General, concluded at the Hague the 7th of February, 1667.

I. **A**LL the Subjects and Inhabitants of *Great Britain* may with all Safety and Freedom, sail and traffick in all the Kingdoms, Countries, and Estates, which are or shall be in Peace, Amity, or Neutrality with *Great Britain*, without being troubled or disquieted in that Liberty by the Ships of War, Gallies, Frigates, Barques, or other Vessels belonging to the States General, or any of their Subjects, upon Occasion and Account of any Hostilities which may hereafter happen between the said States General and the above-said Kingdoms, Countries, and Estates, or any of them, which are or shall be in Peace, Amity, or Neutrality with *Great Britain*.

II. This Freedom of Navigation and Traffick shall extend to all Sorts of Merchandize, except those of Contraband.

III. This Term of contraband Goods is understood to comprehend only all Sorts of Fire-Arms and their Appurtenances; as Cannon, Musquets, Mortar-Pieces, Petards, Rests, Bandeliers, Powder, Match, Saltpetre, Bullets, Pikes, Swords, Morions, Head-pieces, Coats of Mail, Halberts, Javelins, Horses, great Saddles, Holsters, Belts, and other Utenfils of War, call'd in *French*, *Affortisemens servant a l'Usage de la Guerre*.

IV. In this Quality of contraband Goods, these following shall not be comprehended; Corn, Wheat, or other Grain and Pulse; Oyls, Wines, Salt, or generally any Thing that belongs to the Nourishment

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ment and Sustenance of Life; but shall remain free, as other Merchandize and Commodities not comprehended in the precedent Article; and the Transportation of them shall be permitted even unto Places in Enmity with the States General, except such Cities and Places as are besieg'd, block'd up, or invested.

V. It hath been agreed, for the due Execution of what is abovesaid, That the Ships and Barques of the *English*, laden with Merchandize, being enter'd into any Port of the said States General, and purposing to pass from thence unto the Ports of the Enemies, shall be only oblig'd to shew unto the Officers of the Port of the said States, out of which they would go, their Passports, containing the Specification of the Lading of their Ships, attested and mark'd with the ordinary Seal of the Officers of the Admiralty of those Places from whence they first came, with the Place whither they are bound, all in usual and accustom'd Form; after which Shewing of their Passports in the Form aforesaid, they may not be disquieted, nor search'd, detain'd, nor retarded in their Voyages, upon any Pretence whatsoever.

VI. The same Course shall be us'd in Regard of the *English* Ships and Vessels which shall come into any Roads of the Countries under the Obedience of the said States, not intending to enter into the Ports; or being enter'd thereinto, not to unlade and break Bulk; which Ships may not be oblig'd to give Account of their Ladings, but in Case of Suspicion that they carry unto the Enemies of the said States any contraband Goods as aforesaid.

VII. And in Case of such apparent Suspicion, the said Subjects of his Majesty shall be oblig'd to shew, in the Ports, their Passports in the Form specify'd.

VIII. But if they were come within the Roads, or were met in the open Sea by any of the said

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States Ships or private Men of War, of their Subjects; for avoiding of all Disorder, the said Ships of the United Provinces, or of their Subjects, shall not come near within Cannon-Shot of the *English*, but shall send out their Long-boat, and cause only two or three Men to go on Board the *English* Ships or Vessels, unto whom the Passports and Certificates of the Propriety of the Ships shall be shewn by the Master or Captain of the *English* Ship, in the Manner above specify'd, according to the Form of the said Certificates, which shall be inserted at the End of this Treaty; by which Passport and Certificate Proof may be made, not only of the Lading, but also of the Place of Abode, and Residence of the Master or Captain, and Name of the Ship it self; to the End, that by these two Ways it may be known whether they carry contraband Goods; and that the Quality, as well of the said Ship, as of its Master or Captain, may sufficiently appear; unto which Passports and Certificates intire Faith and Credit shall be given. And to the End that their Validity may be the better known, and that they may not be in any wise falsify'd and counterfeit, certain Marks and Counter-Signs of his Majesty and the said States General, shall be given unto them.

IX. And in Case any Merchandize and Commodities of those Kinds, which are before declar'd to be contraband and forbidden, shall by the Means aforesaid, be found in the *English* Ships, or Vessels, bound for the Ports of the said States Enemies, they shall be unladen, judicially proceeded against, and declar'd Confiscate before the Judges of the Admiralty of the United Provinces, or other competent Officers; but so, that the Ship and Vessel, or other free or allow'd Goods, Merchandize, and Commodities found in the said Ship, may not, for that Cause, be in any Manner seiz'd or confiscate.

X. It

X. It is furthermore agreed and covenanted, That whatsoever shall be found laden by his Majesty's Subjects, upon any Ship of the Enemies of the said States, although the same were not contraband Goods, shall yet be confiscate, with all that shall be found in the said Ship, without Exception or Reservation: But on the other Side also, all that shall be found in the Ships belonging to the King of *Great Britain's* Subjects, shall be free and discharg'd, altho' the Lading, or Part thereof, belong to the said States Enemies, except contraband Goods; in Regard whereof such Rule shall be observ'd, as hath been order'd in the precedent Articles.

XI. All the Subjects and Inhabitants of the said United Provinces, shall reciprocally enjoy the same Rights, Liberties, and Exemptions, in their Trade and Commerce, upon the Coasts, and in the Ports, Roads, Seas, and Estates of his said Majesty, which his said Majesty's Subjects shall enjoy in those of the said States, and in open Sea; it being to be understood, that the Equality shall be mutual every Way on both Sides, even in Case the said States should hereafter be in Peace, Amity, and Neutrality, with any Kings, Princes, and States, who should become Enemies to his said Majesty; so that either of the Parties are mutually to use the same Conditions and Restrictions, express'd in the Articles of this present Treaty, with Regard to Trade and Commerce.

XII. And the more to assure the Subjects of the said States, that no Violence shall be offer'd them by the Ships of War belonging to his Majesty of *Great Britain*, or his Subjects, all the Captains of the King's Ships, and all his Majesty's Subjects that send out private Men of War, shall be charg'd and enjoyn'd not to molest or endamage them in any Thing whatsoever, upon Pain of being punish'd, and made answerable, in their Persons and

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Goods, for all Costs and Damages, until due Restitution and Reparation be made.

XIII. And for this Cause, the Captains and Capers shall from henceforth every one of them be oblig'd, before they go out, to give good and sufficient Security, before competent Judges, in the Sum of Fifteen hundred Pounds, &c. that they will give full Satisfaction for any Injuries or Wrongs they may commit in their Courses at Sea, and for their Officers under them, that shall violate this present Treaty, and the Orders and Proclamations of his Majesty, which shall be publish'd by Virtue and in Conformity to the Regulation therein made; upon Pain of forfeiting their said Commissions and Licenses, which shall in like Manner be practis'd by the Subjects of the said States General.

XIV. If it should happen, that any of the said Captains should make Prize of a Vessel laden with contraband Goods, the said Captains may not open the Chests, Mails, Packs, Bags, Casks, or sell, or exchange, or otherwise alienate them, until they have landed them in the Presence of the Judges or Officers of the Admiralty, and an Inventory is by them made of the said Goods found in the said Vessels; unless the contraband Goods making but a Part of the Lading, the Master of the Ship should be content to deliver the said contraband Goods unto the said Captain, and to pursue his Voyage; in which Case, the said Master shall by no Means be hinder'd from continuing his Course and the Design of his Voyage.

XV. His Majesty being desirous that the Subjects of the said States may be us'd, in all Countries under his Obedience, as favourably as his own Subjects, will give all necessary Orders, that Judgments and Decrees upon Prizes, which shall happen to be taken at Sea, may be given with all Justice and Equity, by Judges not suspected nor concern'd

concern'd in the Matter under Debate; and his Majesty will give precise and effectual Orders, that all Decrees, Judgments, and Orders of Justice, already given and to be given, may be readily and duly executed according to the Tenor of them.

XVI. And when the Ambassadors of the said States General, or any other of their publick Ministers, residing at his Majesty's Court, shall make Complaint of the Judgments which shall be given, his Majesty will cause a Review to be made of the said Judgments in his Council, &c.

XVII. When Process shall be mov'd in the first or second Instance, between those that have taken the Prizes at Sea, and the Persons interested therein, and the said interested Persons shall come to obtain a favourable Judgment or Decree; the said Judgment or Decree shall have its Execution upon Security given, notwithstanding the Appeal of him that took the Prize: But the same shall not hold on the contrary, where the Sentence goes against the Claimers. And that which is said in this present, and in the precedent Articles, for the Causing good and speedy Justice to be done unto the Subjects of the United Provinces, in the Matter of Prizes taken at Sea by his Majesty's Subjects, shall be understood and practis'd by the States General, in Regard of Prizes taken by their Subjects from those of his Majesty.

XVIII. But since the Conveniences and Inconveniences of Things and Agreements cannot be discover'd but in Procedure of Time, and by Observations drawn from mutual Experience, it is therefore agreed between the said King of *Great Britain* and the said Lords, the States of the United *Netherlands*, That at any Time hereafter, when both Parties shall so think it fitting, certain Commissioners, by each Party respectively chosen, shall meet by the common Consent of both; who shall

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shall make it their Care and Business to supply whatever shall be found wanting in the aforementioned Articles, to change or limit whatever shall not be convenient and commodious for both, and fully compleat a farther Treaty, both concerning these Things, and all other the Laws of Navigation.

XIX. All these Agreements, and all and every Thing therein contain'd, shall be confirm'd and ratify'd by the said King of *Great Britain*, and the States General of the United Provinces, by Letters Patents of both Parties, seal'd with their Great Seal, in due and authentick Form, within four Weeks next ensuing, or sooner, if it may be; and mutual Instruments shall be exchange'd by each Party within the Time aforesaid.

There is another Treaty concluded between King Charles the 2d and the States General, wherein are contain'd several extraordinary Articles relating to Commerce and Marine Affairs: They are as follow.

Art. XX. **A**ND for the greater Freedom of Commerce and Navigation, it is agreed and concluded, that the said King of *Great Britain* and the said States General, shall not receive into their Havens, Cities, and Towns, nor suffer that any of the Subjects of either Party do receive Pirates or Sea-Rovers, or afford them any Entertainment, Assistance, or Provision, but shall endeavour that the said Pirates and Sea-Rovers, or their Partners, Sharers, and Abettors, be found out, apprehended, and suffer condign Punishment, for the Terror of others: And all the Ships, Goods, and Commodities piratically taken by them, and brought into the Ports of either Party, which can
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be found, nay, though they be sold, shall be restor'd to the right Owners; or Satisfaction shall be given, either to their Owners, or to those who by Letters of Attorney shall challenge the same; Provided the Right of their Propriety be made to appear in the Court of Admiralty by due Proofs, according to Law.

XXI. It shall not be permitted to the Subjects of the said King of *Great Britain*, and the Inhabitants of the Kingdoms and Countries under his Obedience, or to the Inhabitants and Subjects of the said United Provinces, to do or offer any Hostility or Violence to each other, either by Land or Sea, upon any Pretence whatsoever: And, consequently, it shall not be lawful for the said Subjects, or Inhabitants, to get Commissions or Letters of Reprizal from any Prince or State with whom either of the Confederates is at Difference, or in open War; and much less, by Virtue of those Letters, to molest or damnify the Subjects of either Party. Neither shall it be lawful for any foreign private Men of War, (who are not Subjects to one or the other Party, having Commissions from any other Prince or State) to equip their Ships in the Harbours of either of the aforesaid Parties, or to sell or ransom their Prizes, or any other Way to truck, as well the Ships and Goods, as any other Lading whatsoever. And it shall not be lawful for them to buy any Victuals, but what shall be necessary to bring them to the next Port of that Prince from whom they obtain'd their said Commissions. And if perchance any of the Subjects of the said King of *Great Britain*, or of the said States General, shall buy, or get to themselves by Truck, or any other Way, such Ship or Goods which have been taken from the Subjects of the one or the other Party; in such Case the said Subjects shall be bound to restore the said Ship or Goods to the Proprietors without any Delay, and without any

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any Compensation or Re-imbursment of Money, paid or promised for the same; Provided that they make it appear, before the Council of the said King of *Great Britain*, or before the States General, that they are the right Owners or Proprietors of them.

XXII. That in Case the King of *Great Britain*, or the said States General, do make any Treaty of Amity or Alliance with any other Kings, Republicks, Princes, or States, they shall therein comprehend each other and their Dominions, if they desire to be therein comprehended; and shall give to the other Notice of all such Treaties of Friendship or Alliance.

XXIII. That in Case it happens, during this Friendship, Confederacy, and Alliance, that any Thing shall be done or attempted by any of the Subjects or Inhabitants of either Party against this Treaty or any Part thereof, by Land, Sea, or fresh Waters, nevertheless this Amity and Alliance between the said Nations, shall not thereby be broken or interrupted, but shall remain and continue in its full Force; and that only those particular Persons shall be punish'd, who have committed any Thing against this Treaty, and none else; and that Justice shall be render'd, and Satisfaction given to all Persons concern'd, by all such who have committed any Thing contrary to this Treaty, by Land or Sea, or other Waters in any Part of *Europe*, or any Places within the *Streights* or in *America*, or in any Lands, Islands, Seas, Creeks, Bays, Rivers, or in any Places on this Side the Cape of *Good Hope*, within twelve Months Space after Justice shall be demanded; and in all Places whatsoever on the other Side of the Cape, (as hath been abovesaid) within eighteen Months next ensuing, after Demand of Justice shall be made in Manner aforesaid. But in Case the Offenders against this Treaty do not appear, and submit them-

themselves to Judgment, and give Satisfaction within the respective Times above express'd, proportionably to the Distance of the Places, they shall be declar'd Enemies of both Parties, and their Estates, Goods, and Revenues whatsoever, shall be confiscated, for the due and full Satisfaction of the Injuries and Wrongs by them offer'd; and their Persons also, when they come within the Dominions of either Party, shall be liable unto such Punishments as every one shall deserve for his respective Offences.

XXIV. That the Subjects of the said King of *Great Britain*, and those which are under his Jurisdiction, may freely and securely travel in all the Provinces of the *Low Countries*, and all the Dominions of the States General in *Europe*, and thro' them, by Sea or Land, pass to other Places there or beyond them; and through all Quarters of the United Provinces, Cities, Ports, or Garrisons whatsoever, which are in any Parts of the United Provinces, or elsewhere in their Dominions in *Europe*, as well they themselves, exercising Trade in all those Plantations, as their Agents, Factors, and Servants, may go arm'd or unarm'd, (but if arm'd, not above forty in Company) as well without their Goods and Merchandises as with them, wheresoever they please. The People also and Inhabitants of the United Provinces shall enjoy the same Liberty and Freedom in all the Dominions of the said King in *Europe*; provided that they and every of them do, in their Trade and Merchandising, yield Obedience to the Laws and Statutes of either Nation respectively.

XXV. That in Case the Merchant-Ships of the Subjects of either Nation shall by Storm, Pirates, or any other Necessity whatsoever, be driven into any Haven of either Dominion, they may depart securely, at their Pleasure, with their Ships and Goods, without paying any Customs or other Duties;

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ties; Provided they break no Bulk, nor sell any Thing; nor shall they be subject to any Molestation or Search, provided they do not receive on Board any Persons or Goods, nor do any Thing else contrary to the Laws, Ordinances, or Customs of the Places, where they (as aforesaid) shall happen to arrive.

XXVI. That the Merchants, Masters, and Seamen, of either Party, their Ships, Goods, Wares, or Merchandises, shall not be arrested or seised in the Lands, Havens, Roads, or Rivers of the other, to serve at War, or any other Use, by Virtue of any general or special Command, unless upon an extraordinary Necessity, and that just Satisfaction be given for the same; but so as the same shall not derogate from the Seisures and Arrests duly made in the ordinary Courts of Justice of either Nation.

XXVII. That the Merchants on both Sides, their Factors and Servants, and also the Masters and other Seamen, as well going as returning by Sea and other Waters, as also in the Havens of either Party, or going on Shore, may carry and use, for the Defence of themselves and Goods, all Sorts of Weapons, as well offensive as defensive; but being come into their Lodgings or Inns, they shall there lay by and leave their Arms until they be going on Board again.

XXVIII. That the Men of War, or Convoys of either Nation, meeting or overtaking at Sea any Merchant-Ship or Ships, belonging to the Subjects or Inhabitants of the other, holding the same Course, or going the same Way, shall be bound as long as they keep one Course together, to protect and defend them against all and every one who would set upon them.

XXIX. That if any Ship or Ships of the Subjects or Inhabitants of either Nation, or of a Neuter, be taken by a third Party in the Harbours
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of either, not being Subject or Inhabitant of either Nation, they, in or out of whose Haven or Jurisdiction the said Ships shall be taken, shall be bound to endeavour with the other Party, that the said Ship or Ships be pursu'd, brought back, and restor'd to the Owners; but all this shall be done at the Charges of the Owners, or whom it concerns.

XXX. That Searchers, and other like Officers, on both Sides, shall regulate themselves according to the Laws of either Nation, and shall not impose or demand more than they are allow'd by their Commissions of Instructions.

XXXI. That if any Injury be done or practis'd by either Nation, or the Subjects or Inhabitants of the same, against the Subjects or Inhabitants of the other, or against any of the Articles of this present Treaty, or against common Right; yet, nevertheless, no Letters of Reprizal, Marque, or Countermarque, shall be granted by either Side, till Justice hath been first demanded according to the ordinary Course of Law; but in Case Justice be there deny'd or delay'd, then that the said King of *Great Britain*, and the said States General, or Commissioners of that Nation, whose Subjects or Inhabitants have suffer'd the Wrong, shall publickly require Justice from the other Party, where, (as abovesaid) it was deny'd or delay'd, or from that Power appointed to hear and decide such Difference, that there may be a friendly Composure, or due Process of Law. But if still there happen more Delays, and neither Justice be administer'd, nor Satisfaction given within three Months after such Demand, that then Letters of Reprizal, Marque, or Countermarque, may be granted.

XXXII. It is also agreed, if at any Time it happen that the Differences now compos'd between his said Majesty and the States General, should fester, and break out again in open War,

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that then those Ships, Merchandise, or any Kind of Moveables of either Party, which shall be found to be and remain in the Ports, and under the Command of the adverse Party on either Side, shall not be confiscated, or made obnoxious to any Inconvenience; but the Space of six Months shall be allowed to the Subjects and Inhabitants of either Party, that they may have Leisure to transport from thence the fore-mentioned Things, and any Thing else that is theirs, whither they shall think fit, without any Kind of Molestation.

XXXIII. That they who have obtain'd private Commissions from either Party, before they receive such Commissions, shall give good and sufficient Security before the Judge of the Court where they receive such Commissions, &c. that they shall do no Damage or Injury to the Subjects or Inhabitants of either Side.

XXXIV. It is also agreed and concluded, that the Subjects and Inhabitants of either Party shall always have free Access to each other's Sea-Ports, there to remain, and from thence to depart with the same Freedom; and not only with their Merchant-Ships and Lading, but also with their Men of War, whether they belong to the said King or States General, or unto such as have obtain'd private Commissions, whether they arrive through Violence or Tempests, or other Casualty of the Seas, or to mend their Ships, or to buy Provision, so they exceed not the Number of eight Men of War, when they come there voluntarily; nor shall remain or abide longer in the Havens or Places adjacent, than they shall have a just Cause to repair their said Ships, or to buy Victuals or other Necessaries: And if a greater Number of Men of War should, upon Occasion, desire to come into such Ports, they shall in no Case enter thereinto, until they have first obtain'd Leave from those to whom the said Havens do appertain, unless they be forc'd

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forc'd so to do by Storm, or some other Necessity, to avoid the Danger of the Sea: In which Case, also, they shall presently make known the Cause of their Coming unto the Governor or chief Magistrate of the Place, and shall stay no longer than the Governor or chief Magistrate shall permit them; and shall not do any Acts of Hostility, or other Prejudice in the aforesaid Havens, during their Abode there.

XXXV. Furthermore, It is agreed and concluded, that both Parties shall truly and firmly observe and execute this present Treaty, &c.

The 30th of *December*, 1675, an explanatory Declaration upon certain Articles in the preceding Treaties, was made and agreed upon, *viz.* That the true Meaning and Intention of the said Articles is and ought to be, that Ships and Vessels, belonging to the Subjects of either of the Parties, can and might, from the Time that the said Articles were concluded, not only pass, traffick, and trade from a neutral Port or Place to a Place in Enmity with the other Party, or from a Place in Enmity to a neutral Place; but also from a Port or Place in Enmity, to a Port or Place in Enmity with the other Party, whether the said Places belong to one and the same Prince or State, or to several Princes or States, with whom the other Party is in War.

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A Marine Treaty between King Charles the Second and Lewis the Fourteenth, the most Christian King, concluded at St. Germain's en Laye, the 24th Day of February, 1676.

I. **T**HAT it shall and may be lawful for all and every the Subjects of the most Serene and Mighty Prince the King of *Great Britain* aforesaid, with all Freedom and Safety to sail, trade, and exercise any Manner of Traffick in all those Kingdoms, Countries, and Estates, which are, or at any Time hereafter shall be in Peace, Amity, or Neutrality with his said Majesty; so that they shall not be any ways hinder'd or molested in their Navigation or Trade, by the military Forces, nor by the Ships of War, or any other Kind of Vessels whatsoever, belonging either to the most Christian King, or to his Subjects, upon Occasion or Pretence of any Hostility or Difference which now is, or hereafter shall happen between the said most Christian King and any Princes or People whatsoever, in Peace, Amity or Neutrality with the said King of *Great Britain*. And likewise, that it shall and may be lawful for all and every the Subjects of the said most Christian King, with all Freedom and Safety to sail, trade, and exercise any Manner of Traffick in all those Kingdoms, Countries, and Estates, which are, or at any Time hereafter shall be, in Peace, Amity, or Neutrality with the aforesaid most Christian King; so that they shall not be any ways hinder'd or molested in their Navigation or Trade, by the military Forces, nor by the Ships of War, or any other Kind of Vessels whatsoever, belonging either to the King of *Great Britain* above-mention'd, or to his Subjects, upon Occasion or Pretence of any Hostility or Difference which now
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is, or shall hereafter happen between his Majesty, and any Princes or People whatsoever, in Peace, Amity, or Neutrality with the said most Christian King.

II. Nor shall this Freedom of Navigation and Commerce be infring'd by Occasion or Cause of any War, in any Kind of Merchandises; but shall extend to all Commodities which shall be carry'd in Time of Peace; those only excepted, which follow in the next Article, and are comprehended under the Name of Contraband.

III. Under this Name of Contraband, or prohibited Merchandises, shall be comprehended only Arms, Pieces of Ordnance, with all Implements belonging to them, Fire-balls, Powder, Bullets, Pikes, Swords, Lances, Spears, Halberts, Guns, Mortar-Pieces, Petards, Granadoes, Musquet-Refts, Bandeliers, Saltpetre, Musquets, Musquet-Shot, Helmets, Corslets, Breast-Plates, Coats of Mail, and the like Kind of Armature, Soldiers, Horses, and all Things necessary for the Furniture of Horses, Holsters, Belts, and all other warlike Instruments whatsoever.

IV. These Merchandises following shall not be reckon'd among prohibited Goods, *viz.* all Kind of Cloth, and all other Manufactures woven of any Kind of Wool, Flax, Silk, Cotton, or any other Materials; all Sorts of Cloathing and Vestments, together with the Materials whereof they are made; Gold and Silver, as well coin'd as not coin'd, Tin, Iron, Lead, Copper, and Coals; as also Wheat and Barley, and all other Kind of Corn or Pulse; Tobacco, and all Kind of Spices; salted and smoak'd Flesh, salted and dry'd Fish; Cheese, Butter, Beer, Oils, Wines, Sugars, and all Sort of Salt, and, in general, all Provision which serves for the Nourishment and Sustenance of Life; likewise all Kind of Cotton, Hemp, Flax, and Pitch; Ropes, Sails, and Anchors, also Masts and Planks, Boards and Beams of what Sort of Wood soever,

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and all other Materials requisite for the Building or repairing Ships, but they shall be wholly reputed amongst free Goods, as well as all other Wares and Commodities which are not comprehended in the next precedent Article ; so that the same may be freely transported and carry'd by the Subjects of the most Serene King of *Great Britain*, not only from one neutral Place to another neutral Place, or from a neutral Port or Place to a Place in Hostility with the most Christian King, or from a Place in Hostility with him to a neutral Place ; but also from one Place in Enmity with the most Christian King, to another Port or Place in Enmity with him ; be it that such Ports or Places do belong to the same Prince or State, or to several Princes or States with whom the most Christian King shall happen to be in War: And in like Manner, that the same may be freely transported by the Subjects of the most Christian King, not only from one neutral Place to another neutral Place, or from a neutral Port or Place to a Place in Hostility with the King of *Great Britain*, or from a Place in Hostility with him to a neutral Place ; but also from one Place in Enmity with the King of *Great Britain*, to another Port or Place in Enmity with him ; be it that such Ports or Places do belong to the same Prince or State, or to several Princes or States, with whom the King of *Great Britain* shall happen to be in War ; except only Towns or Places besieg'd, environ'd, or invested ; in *French, Blocquées ou Investiés*.

V. And that all Manner of Differences and Contentions on both Sides, by Sea and Land, may from henceforth cease and be utterly extinguish'd, it is agreed, That all Kind of Ships and Vessels whatsoever, belonging to the Subjects of his said Majesty of *Great Britain*, entering or being enter'd into any Road or Port under the Obedience of the most Christian King, and purposing to pass
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from thence, shall be oblig'd to shew unto the Officers acting in the Ports of the said most Christian King, or to the Captains of the most Christian King's Ships, or private Men of War, (if any happen there to be) their Passport, commonly call'd a Sea-Brief; nor shall any Money, or any Thing else, be exacted from them under that Pretence: But if any Ship, belonging to the Subjects of his Majesty of *Great Britain*, shall, in the open Sea, or elsewhere, out of the Dominions of the most Christian King, meet the Ships of War of the most Christian King, or private Men of War of his Subjects, the said Ships of the most Christian King, shall keep at a convenient Distance, and only send out their Boat; and it shall be lawful for them only with two or three Men to go on Board the Ships and Vessels of the Subjects of his Majesty of *Great Britain*, that the Passport (or Sea-Brief) of the Propriety thereof may be shewn to them by the Captain or Master of such Ship or Vessel, belonging to the Subjects of his Majesty of *Great Britain*; and the Ship which shall shew the same, shall freely pass: And it shall not be lawful to molest, search, detain, or divert the same from her intended Voyage: And all the Subjects of the most Christian King, shall enjoy, in all Things, the same Liberty and Immunity, they, in like Manner, shewing their Passport, or Sea-Brief.

VI. But if any Ship or Vessel belonging to the *English*, or other Subjects of his Majesty of *Great Britain*, shall be met by any Man of War making into any Port in Enmity with the most Christian King; or, on the other Side, if any Ship belonging to the most Christian King, or other Subjects of the said most Christian King, shall be met in her Way making into any Port under the Obedience of the Enemies of his said Majesty of *Great Britain*, such Ship shall shew not only a Passport, (or Sea-Brief) wherewith she is to be furnish'd,

but also her Cocquets, expressing the Contents of the Goods on Board, given, in the usual Form by the Officers of the Customs in the Port from whence she came; whereby it may be known whether she is laden with any Merchandises prohibited by the third Article of this Treaty.

VII. And if, by shewing the abovesaid Cocquets, expressing the Contents of the Goods on Board, given in the usual Form by the Officers of the Customs in the Port from whence she came, (concerning the Shewing whereof it is above agreed) either Party shall discover any Kind of Merchandises, which, in the third Article of this Treaty, are declar'd to be contraband, or prohibited, consign'd to any Port under the Obedience of their Enemies, it shall not be lawful to open the Hatches of such Ship in which the same shall happen to be found, whether she belongs to the Subjects of his Majesty of *Great Britain*, or of the most Christian King; nor to unlock or break open the Chests, Mails, Packs, or Casks, in the same; nor to convey away any the least Part of the Merchandises, before the Whole be first landed in the Presence of the Officers of the Admiralty, and inventory'd: Neither shall it be any ways lawful to sell, exchange, or ortherwise to alienate the same, until such prohibited Goods are rightfully and lawfully proceeded against; and that the Judges of the Admiralty have, by their respective Sentences, confiscated the same: Provided always, that as well the Ship it self, as the rest of the Commodities found in the same, which by this Treaty are to be reputed free, shall not, upon Pretence of their being infected by such prohibited Goods, be detained, much less confiscated for lawful Prize; but if not the Whole, but a Part only of the Lading consists of contraband or prohibited Commodities, and that the Master of the Ship shall be willing and ready to deliver them to the Captor, who

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seised the same; in that Case, the Captor shall not compel the Ship to go out of her Course, to any Port he thinks fit, but shall forthwith dismiss her, and upon no Account hinder her from freely prosecuting her design'd Voyage.

VIII. 'Tis farther agreed, that whatsoever shall be found laden by the Subjects of his Majesty of *Great Britain*, upon any Ship whatsoever belonging to the Enemies of the most Christian King, although the same be not of the Quality of contraband Goods, may be confiscated: But, on the contrary, all that which shall be found in the Ships belonging to the Subjects of his Majesty of *Great Britain*, shall be accounted clear and free, altho' the whole Lading, or any Part thereof, by just Title of Propriety, shall belong to the Enemies of the most Christian King; except always contraband Goods, which being intercepted, all Things shall be done according to the Meaning and Direction of the precedent Articles. And, by the same Reason, whatsoever shall be found laden by the Subjects of the most Christian King, in any Ship whatsoever belonging to the Enemies of his Majesty of *Great Britain*, altho' the same be not of the Quality of contraband Goods, may be confiscated; but, on the other Side, all that which shall be found in the Ships belonging to the Subjects of the most Christian King, shall be accounted clear and free, although the whole Lading, or any Part thereof, by just Title of Propriety, shall belong to the Enemies of his Majesty of *Great Britain*; except always contraband Goods, which being intercepted, all Things shall be done according to the Meaning and Direction of the precedent Articles. And lest any Damage should, by Surprise, be done to the one Party who is in Peace, when the other Party shall happen to be engaged in War, it is provided and agreed, that a Ship belonging to the Enemies of the one Party, and laden with the
Goods

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Goods of the Subjects of the other Party, shall not infect, or render the said Goods liable to Confiscation, in Case such Ship were laden before the Expiration of the Terms and Times hereafter mention'd, after the Declaration and Publication of any War, *viz.* if the Goods were laden in any Port or Place between, &c. within the Space of, &c. of, &c. between, &c. so that it shall not be lawful to confiscate the Goods of the Subjects of his Majesty of *Great Britain*, taken or seized in any Ship or Vessel whatsoever of any Enemy of the most Christian King, upon that Pretence; but the same shall be, without Delay, restor'd to the Proprietors, unless they were laden after the Expiration of the said Terms of Time respectively; but so that it may not be lawful for them afterwards to carry to Enemies Ports the said Merchandises, which are called Contraband, and, for the Reason aforesaid, shall not be liable to Confiscation; neither, on the other Side, shall it be lawful to confiscate the Goods of the Subjects of the most Christian King, &c.

IX. And the more to assure the Subjects of his Majesty of *Great Britain*, and of the most Christian King, that no Injury shall be offer'd to them by the Ships of War, or private Men of War, of either Side, all the Captains of the Ships, as well of his Majesty of *Great Britain*, as of the most Christian King, and all their Subjects who shall set out private Men of War, and likewise their privileg'd Companies, shall be enjoind not to do any Injury or Damage whatsoever to the other; which if they do, they shall be punished, and, moreover, be liable to satisfy all Costs and Damages, by Restitution and Reparation, upon Pain and Obligation of Person and Goods.

X. For this Cause, all the Commanders of private Men of War, shall, from henceforth, be oblig'd, before they receive their Commissions, to enter, before

fore a competent Judge, good and sufficient Security, by able and responsible Men, who have no Part or Interest in such Ship, in the Sum of 1500*l.* *Sterling*, or sixteen thousand five hundred Livres; and when they have above one hundred and fifty Men, then in the Sum of 3000*l.* *Sterling*, or three and thirty thousand Livres, that they will give full Satisfaction for any Damages or Injuries whatsoever, contrary to this Treaty, &c.

XI. His Majesty of *Great Britain*, and the most Christian King, being desirous that the Subjects of each other may be mutually treated in all Countries under their Obedience, respectively, with the like Kindness as their own Subjects, will give all necessary and effectual Orders, that Judgments upon Ships and Merchandise taken at Sea, be given according to the Rule of Justice and Equity, by Judges beyond all Suspicion, and not any ways concern'd in the Cause under Debate. And his Majesty of *Great Britain*, and the most Christian King, will likewise give strict Orders, that all Sentences already given, and which shall be hereafter given, be, according to the Tenor thereof, duly put in Execution, and obtain their Effect.

XII. And whensoever the Ambassadors, or other publick Ministers of the King of *Great Britain*, residing in the Court of the most Christian King, shall complain of the Unjustness of Sentences which have been given concerning Ships or Merchandise taken at Sea, and belonging to the Subjects of the King of *Great Britain*, then the said most Christian King, on Demand of the said Ambassadors, or Ministers of the King of *Great Britain*, shall cause the said Sentences to be review'd and examin'd in his Privy Council, and shall confirm or revoke the Sentences wheresoever given; and likewise the said most Christian King shall take Care that Right be done to the Party complaining, within the Space of four Months, to be accounted

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accounted from the Day of making such Demand. In like Manner, if the Ambassadors, or other publick Ministers of the most Christian King, residing in the Court of the King of *Great Britain*, shall complain of the Unjustness of Sentences which have been given concerning Ships or Merchandise taken at Sea, belonging to Subjects of the said most Christian King, the said King of *Great Britain* shall forthwith commissionate, under his Great Seal, nine of his Privy Council, to adjudge such Matters, and to confirm or revoke the Sentences where-soever given: And the said Commissioners shall meet within the Space of one Month from the Day of delivering the Complaint; and likewise the King of *Great Britain* shall take Care, that Right be done the Party complaining, within the Space of three Months, to be computed from the first Day of the Meeting of the said Commissioners.

XIII. A Suit being commenc'd between the Takers of Prizes on the one Part, and the Claimers thereof on the other, and a Sentence or Decree being given for the Party Reclaiming, the said Sentence or Decree (upon Security given) shall be put in Execution, notwithstanding the Appeal made by him that took the Prize; which shall not be observ'd in Case the Sentence shall be given against the Claimers.

XIV. And whereas the Masters of Merchant-Ships, and likewise the Mariners and Passengers, do sometimes suffer many Cruelties and barbarous Usages when they are brought under the Power of Ships which take Prizes in Time of War, the Takers, in an inhuman Manner, tormenting them, thereby to extort from them such Confessions as they would have to be made; it is agreed, That both his Majesty of *Great Britain*, and the most Christian King, shall, by the severest Proclamations, or Edicts, forbid all such heinous and inhuman Offences; and as many as they shall by
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lawful Proofs find Guilty of such Acts, they shall take Care that they be punish'd with due and just Punishments, and which may be a Terror to others; and shall command, that all Captains of Ships, &c. committing such Practices, to be depriv'd of their Offices, and the Ship to be dismiss'd, &c.

XV. It is also agreed, that the like Severity of Punishments shall be inflicted upon those who shall take Commission from Enemies, to seize the Ships of either Ally or Party.

This is all the Treaties of Commerce I find between *England* and *France*, in the Reign of King *Charles II.*

King *James II.* and King *William* and Queen *Mary* renew'd and confirm'd all former Treaties with the States of *Holland*; the last whereof contains some material Additions relating to the Navy Royal; we being thereby oblig'd to put to Sea fifty large Men of War, and the States thirty, for the Security of the Trade of each Nation.

The Marine Treaty concluded at the General Peace at *Ryswick*, only relates to *France* and *Holland*; so that I proceed to the Treaties of Commerce between her late Majesty and the Kings of *France* and *Spain*, concluded at *Utrecht* in the Year 1713, which I have abridg'd in an exact Manner.

A Treaty

A Treaty of Navigation and Commerce, between the Most Serene and Most Potent Princess Anne, Queen of Great Britain, &c. and the Most Serene and Most Potent Prince Lewis XIV. King of France, &c. Concluded at Utrecht the thirty-first Day of March, 1713.

I. **I**T is agreed, That there shall be a perfect Liberty of Navigation and Commerce between the Subjects on each Part, through all and every the Kingdoms, States, Dominions, and Provinces of their Royal Majesties in *Europe*, concerning all Kinds of Goods, on the Conditions in the following Articles.

II. That if at any Time any ill Understanding shall happen between the Crowns of their Royal Majesties, six Months shall be allow'd to the Subjects and Inhabitants of each Party residing in the Dominions of the other, for them to retire with their Families, Goods, Merchandizes, and Effects, and to sell and dispose of their Goods, without any Manner of Disturbance, Arrest, or Seizure; and they shall have speedy Justice for the Recovery of their Dues.

III. That the Subjects of each of their Royal Majesties shall exercise no Acts of Hostility against each other, neither by Sea nor Land; nor receive any Commission from any Prince or State, to act as Privateers, &c. to the Disturbance or Prejudice of the Subjects of *Great Britain* or *France*; and, to this End, Prohibitions shall be publish'd on either Side, that no one shall in any wise use such Commissions, &c. under the severest Penalties.

IV. The Subjects of each of the said Confederates shall have free Liberty, without License,
to

to go into the Kingdoms, Countries, Provinces, Islands, Cities, Ports, &c. of each other, in *Europe* to abide there, pass through the same, and to return from thence; and in the mean Time to buy all Things for their Subsistence and Use, and be treated with mutual Kindness, they behaving themselves conformably to the Laws, and living peaceably.

V. The Subjects of each of their Majesties, to have Leave to come with their Ships and Merchandizes (not prohibited) to the Lands, Countries, Cities, Ports, &c. of either Side, in *Europe*, to enter into the same, and remain there without Limitation of Time; also to hire Houses, &c. and buy all Kinds of lawful Merchandizes, and lay up, and expose to Sale, Merchandizes brought from other Ports, (but not to sell the same in Shops, or by Retail) without any Impositions; and to have free Leave to remove themselves and Families, Goods and Effects, whither they shall think fit, without any Molestation, paying the usual Duties. And in the Business of Religion, an entire Liberty is to be allow'd to the Subjects of each of the Confederates, and their Families, privately, and within their own Walls, without admitting any other Persons, &c.

VI. The Subjects of each Party shall pay the Tolls, Customs, and Duties of Import and Export, thro' all the Territories of either Party, as are due and accusom'd; and to ascertain the same, Tables shall be kept in publick Places in Towns where Trading is us'd. And if any Officer, or other Person, shall take of a Merchant, or any other Person, any Sum of Money, on Account of Compensation, altho' it be under the Name of a free Gift, more than what is prescrib'd; such Officer, on Conviction, shall give full Satisfaction to the Party wrong'd, and be punish'd according to Law.

VII. Nei-

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VII. Neither Merchants, Masters of Ships, Owners, Mariners, nor Merchandises of either Party, shall on any Pretence, be seised in any the Ports, &c. or Dominions of each other, for publick Use, nor for any other Cause, or be in any wise molested; and it shall be unlawful to extort any Thing from each other: But however, this is not to be understood of that Seisure which shall be made by the Authority of Justice, and in the ordinary Methods of Account, Debt, &c.

VIII. Farther it is agreed, That all the Subjects of the Queen of *Great Britain*, and of the most Christian King, in all Countries subject to their Power, as to Duties and Customs concerning Navigation and Commerce, shall have the same Privileges and Immunities in the Courts of Justice, and all Things relating to Commerce, which any foreign Nation, the most favour'd, is allow'd.

IX. It is farther agreed, That within two Months, a Law shall be made in *Great Britain*, taking off the Duties on Merchandise brought from *France* to *Britain*, more than are paid by other Countries in *Europe*; and that the Acts for prohibiting the Importation of Goods from *France* be repeal'd. The general Tariff, made in the Year 1664, shall take Place, and the Duties paid according to the Tenor of the same, and all Prohibitions, Edicts, &c. made in *France* since the Year 1664, shall be repeal'd. But whereas the Manufactures of Wool, Sugar, salted Fish, &c. are urg'd by *France* to be excepted out of the Rule of the said Tariff, and have not been mutually adjusted, It is provided, that Commissaries on both Sides shall meet at *London*, to determine the same, within two Months after the Exchange of the Ratifications of this Treaty.

X. The Duties on Tobacco imported into *France*, shall be reduc'd to the same moderate Rate as Tobacco of the Growth of any Country in *Europe*
or

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or *America*, being brought into *France*. The Subjects on both Sides shall pay the same Duties in *France*, and there shall be an equal Liberty of selling, and the *British* Subjects have the same Benefit of the Laws as the Merchants of *France*.

XI. The Tax of 50 *Sols Tournois* laid on *British* Ships in *France* for every Tun, and the Tax of 5*s.* laid on *French* Ships in *Great Britain* for every Tun, shall cease.

XII. It is farther agreed, that all Merchants, &c. and Subjects of *Great Britain* in all Places of *France*, shall freely manage their own Business themselves, or as they shall think fit. And Masters of Ships shall not be oblig'd, in loading or unloading their Vessels at *Bordeaux*, or in any other Places, to make use of Workmen appointed by publick Authority; but it shall be free for them to employ such Persons as they shall think fit, neither shall they be oblig'd to wait for their being loaded, or to receive any Goods: And the Subjects of *France* to have the same Privileges in all Places subject to the Dominion of *Great Britain*.

XIII. It shall be lawful for Merchants and others, Subjects of either Party, by Will or any other Ways, to devise or dispose of their Monies and Effects. And whether they die having made their Wills or Intestate, their lawful Heirs, Executors, &c. (although they be not naturaliz'd) shall peaceably receive and take Possession of all Goods and Effects whatsoever, according to the Laws of *Great Britain* and *France*, any Law, Statute, Edict, or Custom to the contrary.

XIV. A Dispute arising between any Commander of a Ship on either Side, and his Seamen, in any Port of the other Party, concerning the Seamen's Wages, or other Civil Causes; the Magistrate of the Place shall require no more from the Person accus'd, than a Declaration in Writing, whereby he shall be bound to answer that Mat-

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ter in his own Country; whereupon the Seamen shall not desert the Ship, nor hinder the Voyage. And Merchants, on both Sides, shall keep Books of Accounts, and have an Intercourse of Letters, without Molestation or Search.

XV. It shall not be lawful for any foreign Privateers, who have Commissions from any Prince or State in Enmity with either Nation, to fit their Ships in the Ports of either of the said Parties, or to sell their Prizes, or purchase any Thing but such Victualling as shall be necessary for their going to the next Port of that Prince from whom they have their Commissions.

XVI. The Ships of both Parties being laden, and forc'd by Storm into the Ports of each other, shall not be oblig'd to unlade their Goods, or to pay any Duty; but a small Part of the Lading may be taken out, with Leave, to purchase Victualling, and that Part only be liable to the Duty.

XVII. It shall be lawful for all the Subjects of the Queen of *Great Britain*, and of the most Christian King, to sail with their Ships, with all Liberty and Security, to any Port or Places of those in Enmity with either, and to trade with the Ports and Places of those who are Enemies to both, or either Party; not only from those Places to neutral Ports, but also from one Place belonging to an Enemy, to another Place of an Enemy, without any Disturbance; and that every Thing found on Board shall be deem'd free, tho' belonging to Enemies of either Party, contraband Goods excepted.

XVIII. This Liberty of Navigation and Commerce, shall extend to all Kinds of Merchandises, except those that follow in the next Article, signify'd by the Name of Contraband.

XIX.

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XIX. Under this Name of contraband or prohibited Goods, shall be comprehended Arms, great Guns, Bombs, Fire-Balls, &c. and all other war-like Instruments.

XX. These Merchandises, which follow shall not be reckon'd among prohibited Goods; that is to say, all Sorts of Cloaths, and all other Manufactures of Wool, &c. (as in the 4th Article of the preceding Treaty with *France*) and all other Goods not work'd into the Form of Instruments for War; but shall be reckon'd amongst free Goods, as likewise all other Merchandises not mention'd in the preceding Article.

XXI. To the End all Manner of Quarrels may be prevented, in Case either Party should be engaged in War, the Ships of each Party shall be furnish'd with Passports, expressing the Name of the Ship, &c. and Certificates of their Lading, that it may be known whether there be any contraband Goods on Board, and that the Ships truly belong to the Subjects of one of the Princes.

XXII. The Ships of the Subjects of both their Majesties, coming to the Sea-Coasts within the Dominions of either, not being willing to put into Port, or sell their Cargoes, shall not be oblig'd to give an Account of their Lading, unless they are suspected, upon good Grounds, of having contraband Goods.

XXIII. And in Case of a manifest Suspicion, they shall be oblig'd to produce their Passports and Certificates.

XXIV. But in Case the Ships of the Subjects of either Party, either on the Coasts or the high Seas, shall meet with the Men of War of the other; such Men of War shall remain out of Cannon-shot, and shall send a Boat only with two or three Men, to see the Passport of such Ship; whereupon she shall have free Passage.

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XXV. But Merchant-Ships going to a Port at Enmity with the other Party, shall be oblig'd to exhibit, either on the Seas or in Port, not only their Passports, but Certificates of their Lading.

XXVI. And if one Party, on exhibiting the said Certificates, should find any contraband Goods, it shall be unlawful to break up the Hatches of the Ship, or to open the Chests, &c. unless the Lading be landed in the Presence of Officers of the Admiralty, &c. and not to sell the same, 'till due Processes and Confiscation be obtain'd.

XXVII. On the contrary, it is agreed, that what shall be found to be laden by the Subjects of either Party, on any Ship belonging to the Enemy of the other, the whole, altho' it be not prohibited Goods, may be confiscated, as if it belong'd to the Enemy himself; except those Goods and Merchandises shipp'd before the Declaration of War, &c. which shall not be liable to Confiscation, but shall be restor'd to the Proprietors; but if the same be contraband, they shall not be afterwards carry'd to the Port of the Enemy.

XXVIII. And for the Security of the Subjects of both their Majesties against Privateers, all the Commanders of their Ships, and their Subjects, shall be forbid doing any Damage to the other Side; and if they act contrary, to make Satisfaction and Reparation, and be also punish'd.

XXIX. For this Cause, all Commanders of Privateers, before they receive their Patents, shall be oblig'd to give sufficient Security, &c. that they will make Satisfaction for all Damages and Injuries, which they shall commit during their Courses at Sea, contrary to this Treaty, or the Edicts of either Party, &c.

XXX. Both Parties to shew a mutual Favour in all their Dominions to the Subjects of each other, in the same Manner as if they were their own
2
Subjects,

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Subjects, and give necessary Orders that Justice be duly administer'd.

XXXI. Whensoever the Ambassador, or Resident of each of their Majesties, shall complain of the Injustice of any Sentence, care shall be taken that the same be revised and re-examined in their respective Councils, and that Right be done every Complainant within the Space of three Months.

XXXII. A Suit being commenc'd between the Captors of Prizes and Reclaimers of the same, and a Sentence given in Favour of the Reclaim-er, the same shall be put in Execution, on giving Security, notwithstanding the Appeal of the Cap-tor; but this is not to be observ'd when Judgment is given against the Reclaimer.

XXXIII. In Case Ships are driven on Rocks on the Coasts of either Party, and are there broken to Pieces, and wreck'd, the Goods and Merchandises sav'd shall be faithfully restor'd to the Proprietors, paying only the Expence of Salvage; saving, at the same Time, the Rights and Customs of each Nation.

XXXIV. It shall be free for the Subjects of each Party to employ such Advocates, Attornies, No-taries, Solicitors, and Factors, as they shall think fit.

XXXV. And that Commerce may be more se-curely and freely follow'd, it is agreed, that nei-ther the Queen of *Great Britain*, nor the most Christian King, shall receive any Pirates and Rob-bers into any of their Ports, Havens, &c. but shall cause them to be apprehended and punish'd. And all Ships, &c. taken by them, altho' they are sold, shall be restor'd to the lawful Owners, &c. and Indemnification shall be made thereupon.

XXXVI. It shall be lawful for the Ships of War, and Privateers of both Parties, to carry their Prizes where they please, without paying any Thing, or being arrested, or search'd, when they enter any

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Ports belonging to either of their Majesties; and they shall have Liberty to depart to the Place assign'd in their Commissions; but no Shelter shall be allow'd to such as have made Prize upon the Subjects of either Party.

XXXVII. Neither of their Majesties shall permit, that the Ships or Goods of the other be taken upon the Coasts, or in the Ports of their Dominions, by Ships of War of any Prince or State whatsoever; and if such a Thing should happen, both Parties are to unite their Force for Reparation of the Damage.

XXXVIII. If any Inconveniences happen on either Side, concerning the Observance of this Treaty, the Friendship shall not immediately thereupon be broken, but this Treaty shall subsist; and proper Remedies for removing the Inconveniencies shall be procur'd.

XXXIX. If a Captor use Torture upon the Master of a Ship, or the Ship's Crew, the Ship and Merchandises shall be forthwith releas'd, and set intirely free; and such as shall be found Guilty of the Crime, shall suffer the most severe Punishments.

A Treaty

A Treaty of Commerce between the late Queen Anne and Philip King of Spain, concluded at Utrecht, the 28th Day of November, 1713.

The Treaty of Peace, Commerce, and Alliance, concluded at Madrid, between the Crowns of Great Britain and Spain, the 13th Day of May, 1667, is ratify'd and confirm'd by this Treaty. That Treaty is as follows:

I. **I**T is agreed, That there shall be, between the Crowns of *Great Britain* and *Spain*, a good and perfect Amity, as well by Land as by Sea; and also between the Lands, Countries, &c. belonging unto, or under the Obedience of either of them.

II. That neither of the said Kings, nor their Subjects, shall, on any Pretence, do, or procure to be done, any Wrong or Injury to the other, in any Place of the one or the other, but shall treat one another with Friendship; and may, by Water and by Land, securely pass into the Countries, Dominions, Cities, Towns, &c. accustom'd to Commerce, and there trade, buy, and sell, with any Person or Persons whatsoever.

III. That the said Kings of *Great Britain* and *Spain* shall take care that their Subjects abstain from all Violence; and if any Injury shall be done on either Side, against this Treaty, Letters of Reprizal shall not therefore be given, until such Times as Justice is sought in the ordinary Course of Law. But if Justice be deny'd or delay'd, and no Satisfaction given within six Months, then may issue out Letters of Reprizal and Marque.

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IV. That between the King of *Great Britain* and the King of *Spain*, and their Subjects, there shall be free Trade and Commerce, as well upon Sea as upon Land, in all and every their Dominions and Territories, without safe Conduct or particular Licence; and the Subjects of either Party may enter into any Port, with their Ships laden or empty, and there buy and sell, provide themselves with Provisions, and also may repair their Ships, and from thence freely depart without Molestation, paying the usual Duties; and saving to either Side the Laws and Ordinances of their Country.

V. That for the Merchandises which the Subjects of *Great Britain* shall buy in *Spain*, no new Customs, Tolls, Subsidies, or other Duties shall be taken; and in the Buying and Selling of their Merchandises, they shall enjoy the same Privileges which are allow'd to the natural Subjects of *Spain*; and may lade their Ships, which shall not be detain'd in Port upon any Pretence, after the Customs paid, neither shall the Factor be question'd after their Departure.

VI. And to the End the Duties may be known, Tables and Lists thereof shall be put up at the Doors of the Custom-Houses, &c. of all Cities, &c. where Customs are usually paid. And any Officer, &c. receiving any more than mention'd in those Tables, shall suffer three Months Imprisonment, and pay three Times the Value of the Sum receiv'd.

VII. That it shall be lawful for the Subjects of the King of *Great Britain*, to bring out and carry into any Parts of *Spain*, where hithertofore Commerce hath been used, all Kind of Cloths and Manufactures of *Great Britain*, or of the Plantations, &c. thereto belonging, and which shall be bought by *English* Factors on this Side the Cape of *Good Hope*; and to trade there without declaring to whom, or for what Price they sell their Merchandise,

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ehandise, or being molested, paying the Rights and Tributes; and what Lading they shall not bring to Land, they may detain and carry away in their Ships, without paying any Duty. And Prize-Goods shall be taken for Goods and Merchandise of *Great Britain*.

VIII. That the Subjects of the King of *Great Britain* may bring and carry to all Parts of *Spain*, any Fruits and Commodities of the *East-Indies*, produc'd from the *English* Plantations, or Factories there, with the like Privileges allow'd to the States of *Holland*, in the Treaty of *Munster*, 1648.

IX. That the Subjects of *Great Britain*, trading, buying, and selling in any of the Kingdoms or Territories of *Spain*, shall have and enjoy all the Privileges and Immunities which are granted to the *English* Merchants that reside in *Andaluzia*, which are hereby confirm'd.

X. That the Ships, or any other Vessels that shall belong to the King of *Great Britain*, or his Subjects trading to *Spain*, shall not be visited by the Judges of Counterband, or by any other Officers; nor shall any Soldiers be put on Board the said Vessels; nor shall they be search'd in any Port by the Officers of the Customs, until the Lading is carry'd on Shore which they resolve to disembark in the said Port; nor shall the Captain, Master, or any of the Ship's Company, be imprison'd or detain'd on Shore. If the whole Lading of such Ships is to be discharg'd in any Port, the Entry shall be made in the usual Manner; and if after the Entry made, any other Goods shall be found in the Ship, more than what are contain'd in the said Entry, eight working Days shall be allow'd, that the conceal'd Goods may be enter'd; and if in that Time an Entry shall not be made, such Goods shall be confiscated, and not any other; but no other Punishment shall be inflicted; and when the Ships are re-laden, they may freely go out again.

XI. That

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XI. That the Ships of either Party, or their Subjects, entering any Ports, &c. of the one or the other, and discharging any Part of their Goods, and being consign'd, with the rest, to other Places, shall not be oblig'd to register or pay for any other Merchandise than what is unladen; nor be oblig'd to give any Security, unless in the Case of Felony or Debt, &c.

XII. That if any the Subjects of the King of *Great Britain*, shall land any Goods or Merchandise in any of the Ports of his Catholick Majesty, and having enter'd them, and paid the Customs, shall afterwards desire to transport them to any other Place, they may do it without paying any other Custom. And in Case the Subjects of either Party shall unlade Goods or Merchandises, in any City or Town, and having paid the Duties, shall not be able to put them off, they may remit them to some other City, &c. without Molestation, or paying any farther Rights than what were due at their Entry.

XIII. That it shall be lawful for the Subjects of *Great Britain* and *Spain*, to anchor in the Roads or Bays of either Kingdom, without being constrain'd to enter into Port; and when they cast Anchor, or enter the Ports, they shall not be molested or visited, shewing their Passports. And if the Ships be not bound to an Enemy's Port, and carrying thither contraband Goods, the said Subjects shall return to Sea freely with their Ships, so as they do not break Bulk, or expose any Thing to Sale.

XIV. If any Ships, belonging to the Subjects of the one or the other, shall enter into any Bay, or in the open Sea, shall be met by the Ships of the said Kings, or Privateers; the said Ships shall not come within Cannon-shot, but shall send their Long-Boat or Pinnace, to the Merchant-Ship, and only two or three Men to examine the Passport, &c.

XV. If

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XV. If any prohibited Goods shall be exported from the Dominions of either Party, such prohibited Goods only shall be confiscated, and not the other Goods; neither shall any other Punishment incur to the Delinquent, unless he shall carry out of the Dominions of *Great Britain*, the Corn, Wool, or *Fuller's Earth* of the said Kingdom; or shall carry out of *Spain* any Gold or Silver; in either of which Cases, the Laws of the respective Countries are to take Place.

XVI. That it shall be lawful for the Subjects of both Princes, to have Access to the Ports of the one and the other, and there remain, and depart again with their Vessels for Trade; and for Ships of War, arriving by Strefs of Weather, to repair their Ships, or to furnish Provisions, not exceeding the Number of eight, and not continuing longer than they shall have just Cause. And when an unusual Number of Men of War, by Accident come unto any Port, it shall not be lawful for them to come into the said Ports or Havens, without Leave; and, in such Case, they shall presently acquaint the Governor with the Cause of their coming; nor shall they remain there longer than he shall think convenient.

XVII. That neither the said King of *Great Britain*, nor the King of *Spain*, by any Mandate, shall detain any Merchant, Master of a Ship, Pilot, or Mariner, for his respective Service, or Ships, Merchandise, &c. without a particular Agreement thereunto; provided this shall not interrupt the ordinary Course of Justice.

XVIII. That the Merchants and Subjects of both Princes, their Factors and Servants, and also their Ships, Masters, or Mariners, may, in all Places, carry and use all Kind of Arms defensive and offensive, according to Custom.

XIX. That

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XIX. That the Captains, Officers, and Mariners of the Ships belonging to the Subjects of either Party, may not commence an Action, or trouble their own Ships, or any Persons belonging to them, in the Dominions of the other, for Wages, &c. or under any Pretence; nor may they put themselves into the Service or Protection of either Prince; but if any Controversy happens, the Composing thereof shall be left to the Consul of their Nation, subject to Appeal.

XX. And to the End all Impediments may be remov'd; and whereas it is thought convenient, that the Laws, by which the Importation of Cloth into *Flanders* is prohibited, shall be revok'd, and that the Impositions upon Woollen Manufactures imported (except the ancient Tribute) shall be void; and that the *English* Merchants trading into any of the said Provinces, shall enjoy all the Privileges as are agreed and given by the ancient Treaties between the Kings of *England* and the Dukes of *Burgundy*, and Governors of the Low-Countries: It is agreed, That Deputies shall be nam'd by the King of *Great Britain*, to meet the Ministers of *Spain*, and treat and conclude hereupon, and also to agree upon farther Immunities, suitable to the present State of Affairs, for the Security of Trade and Commerce.

XXI. The Subjects and Inhabitants of both Kingdoms shall, with all Security, sail to, and traffick in, all the Countries which shall be in Peace, Amity, or Neutrality, with the one or the other.

XXII. And they shall not be disturbed in that Liberty, by the Ships or Subjects of the said Princes respectively, by Reason of Hostilities which are, or may be hereafter, with any Kingdoms or States now in Friendship or Neutrality with them.

XXIII. And

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XXIII. And in Case that within the said Ships shall be found any Merchandize hereafter mention'd, being contraband and prohibited, they shall be confiscated; but other allow'd Commodities shall in no wise be seiz'd.

XXIV. It is declar'd, that under the Name of contraband Goods, shall be comprehended all Fire-Arms, &c. Transportation of Soldiers, &c.

XXV. Under the Name of forbidden Merchandize, shall not be comprehended Wheat, Rye, Barley, or other Grains, or Pulse, Salt, Wine, Oil, &c. but they shall remain free; and may be transported unto the Towns of the Enemies, unless such Towns are besieg'd and block'd up.

XXVI. It is also agreed, that whatsoever shall be found laden by the Subjects of either Party aboard the Ships of the Enemies of the other, though it be not forbidden Merchandize, shall be confiscated, with all Things else on Board the said Ship.

XXVII. That the Consul, which hereafter shall reside in any of the Dominions of the King of *Spain*, for the Protection of the Subjects of *Great Britain*, shall be nam'd by the King of *Great Britain*, and shall exercise the full Power as any Consul ever had; and, in like Manner, the *Spanish* Consul shall enjoy the same Authority in *England*.

XXVIII. That the King of *Spain* shall provide, that the Subjects of *Great Britain* shall not be griev'd, contrary to the Laws of Commerce; and that none shall be disturb'd on Account of Conscience; and the said King of *Great Britain* shall take Care that the Subjects of *Spain* be not molested for their Consciences, against the Laws of Commerce.

XXIX. That the Subjects of one Kingdom in the Dominions of the other, shall not be compell'd to sell their Merchandize for Brass-Metal, or exchange them for other Coin against their Will, or
receive

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receive the Payment in other Species than what they agreed for.

XXX. That the Merchants of both Nations, and their Factors, Servants, and Families, and also Masters of Ships, Pilots and Mariners, may remain securely in the Dominions of either of the said Kings, and enjoy their proper Houses, Warehouses, and Magazines for their Merchandizes, for the Time agreed, without any Impediment.

XXXI. And shall imploy such Advocates, Agents, and Solicitors, as they shall think fit; and they shall not be constrain'd to shew their Books of Account, unless it be to give Evidence for the Avoiding of Law-Suits. And the Subjects of either Kingdom are to keep their Books of Account in what Language they please; and shall not be subject to any Inquisition.

XXXII. That in Case the Estate of any Person shall be seiz'd by any Court of Justice, within the Dominions of either Party, and any Effects happen to be in the Hands of the Delinquent, belonging to the Subjects of the other, the said Estate shall not be confiscated, but shall be restor'd.

XXXIII. That the Goods and Estates of the Subjects of the one King, that shall die in the Dominions of the other, shall be preserv'd for the lawful Heirs; the Right of a third Person being reserv'd.

XXXIV. That the Estates of the Subjects of *Great Britain*, dying intestate in *Spain*, shall be inventory'd by the *English* Consul, and deposited in the Hands of two or three Merchants, nam'd by him, for the Benefit of the Proprietors and Creditors; the like to be observ'd in *England*, towards the Subjects of *Spain*.

XXXV. That a decent Burial-Place shall be granted, to bury the Bodies of the Subjects of *Great Britain*, who shall die in *Spain*.

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XXXVI. If any Difference happen hereafter, between the King of *Great Britain*, and the King of *Spain*, the respective Subjects of each Party shall have Notice thereof, and six Months Time given to transport their Effects.

XXXVII. All Goods and Rights conceal'd, Rents, &c. which have not, by a legal Condemnation, been brought into the *Exchequer* at the Time of concluding this Treaty, shall remain at the free Disposal of the Proprietors.

XXXVIII. That the People and Subjects of both Kingdoms shall enjoy in the Lands, Ports, &c. of the one or the other, the same Privileges which have been or shall be granted by either Kings to the most Christian King, the States General, or any other Kingdom, as fully as if they were particularly nam'd.

XXXIX. In Case any Dispute shall happen on either Side, concerning these Articles, the Complaint being presented, Damages shall be forthwith repair'd, &c.

XL. It is agreed, That the Kings of *Great Britain* and *Spain* shall faithfully observe and keep all and singular the Capitulations in this present Treaty, &c.

There are divers other *Articles* agreed upon, (one whereof is, That all Losses of the Subjects of either Crown, sustain'd in the Beginning of the late War, shall be made good, and Restitution made): And several *separate Articles*, the Chief whereof are revok'd by a Treaty concluded with *Spain* by his late Majesty King *George I.* so that I shall take no Notice of them.

And by a Treaty with *Spain* concluded by King *George I.* we have farther Privileges in Trade, especially of sending Ships to the *South-sea*, &c. to trade there.

C H A P. IX.

Containing the particular Charters and Acts of Parliament, establishing the several Companies of Trade, and for incorporating Merchants, for the Improvement of Trade and Commerce, in Great Britain, &c.

The Company trading to Asia, Africa, &c.

THE Royal Adventurers of England, trading into Africa, had their Charter granted them the 20th of January, in the fourteenth Year of the Reign of King Charles the Second; but I shall here only insert an Act of Parliament pass'd the 26th of June, 1695. it being very particular and extensive.

This Act reciting, That the King taking into his Consideration, that by an Act pass'd in this present Parliament, intitl'd, *An Act for encouraging foreign Trade*; his Majesty, for the Improvement thereof, did, with Advice and Consent of the Estates of Parliament, enact and declare, That Merchants, more or less, may contract, and enter into Societies and Companies, for carrying on of Trade, to any Kingdoms and Countries of Europe, to the East and West Indies, the Streights, and to merchandize in the Mediterranean, or upon the Coast of Africa, or in the Northern Parts, or elsewhere; which Societies and Companies being contracted, and enter'd into upon the Terms, and in the usual Manner as such Companies are set up, and in Use in other Parts, consistent with the Laws of this Kingdom; His Majesty, with Consent aforesaid, did allow and approve, give and grant to them
and

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and each of them, all Powers, Rights, and Privileges, as to their Persons, Rules, and Orders, that by the Laws are given to Companies allow'd to be erected for Manufacturies: And his Majesty, for their greater Encouragement, did promise to give to these Companies, and each of them, his Letters Patent under the Great Seal, confirming to them the aforesaid Power and Privileges, with what other Encouragement his Majesty should judge needful, as the aforesaid Act of Parliament more at large mentions. And his Majesty understanding that several Persons, as well Foreigners as Natives of this Kingdom, are willing to engage themselves with great Sums of Money, in an *American, African, and an Indian Trade*, to be exercis'd in and from this Kingdom, if enabl'd and encourag'd thereunto by the Concessions, Powers, and Privileges necessary and usual in such Cases: Therefore, and in Pursuance of the aforesaid Act of Parliament, his Majesty, with Advice and Consent of the said Estates of Parliament, doth hereby make and constitute *John Lord Belhaven, Adam Cockburn, &c.* (several Merchants of *Scotland*, and several of *England*) with such others as shall join within the Space of twelve Months after the first Day of *August* next: And all others, (whom the aforesaid Persons, and these join'd with them, or the major Part of them, being assembled, shall admit and join into their Joint Trade, who shall all be reputed, as if herein originally inserted) shall be one Body incorporate, and a free Incorporation, with perpetual Succession, by the Name of the Company of *&c.* trading to *Africa* and the *Indies*. Provided always, that of the Fund or Capital Stock that shall be agreed to be advanc'd and employ'd by the aforesaid Undertakers and Copartners, the Half at least, shall be appointed and allotted for *Scotish* Men within this Kingdom, who shall enter and subscribe to the said Company before

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fore the first Day of *August*, 1696. And if it shall happen that *Scots* Men, residing within this Kingdom, shall not before the aforesaid Time subscribe for, and make up the equal Half of the said Fund, or Capital Stock, then, and in that Case, it shall be, and is hereby allow'd to *Scots* Men residing abroad, or to Foreigners, to come in, subscribe and be assum'd for the *Superplus* of the said Half, and not otherwise, like as the *Quota* of every Man's Part of the said Stock, whereupon he shall be capable to enter into the said Company, whether he be Native or Foreigner; the least Subscription to be 100 *l.* and the highest or greatest 3000 *l. Sterling*, and no more directly or indirectly in any Sort; with Power to the said Company to have a Common Seal, and to alter or renew the same at their Pleasure, with Advice of the King at Arms; as also to plead and sue, and be su'd; and to purchase, acquire, possess, and enjoy Lordships, Lands, Tenements, or other Estate, real and personal, of what Nature or Quality soever; and to dispose of and alienate the same, or any Part thereof, at their Pleasure; and that by Transfers, and Assignments, made and enter'd in their Books and Records, without any other Formality of Law: Providing always, that such Shares as are subscrib'd for by *Scots* Men within this Kingdom, shall not be alienable to any other than *Scots* Men living within this Kingdom; that the aforesaid Transfers and Conveyances as to Lands and other real Estate, (when made of these only and apart) be perfected according to the Laws of this Kingdom; with Power likewise to the aforesaid Company, by Subscriptions, or otherwise, as they shall think fit, to raise a Joint Stock or Capital Fund of such a Sum or Sums of Money, and under, and subject to such Rules, Conditions, and Qualifications, as by the aforesaid Company, or the major Part of them when assembl'd, shall be limited and appointed,

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pointed, to begin, carry on, and support their intended Trade and Navigation, and whatever may contribute to the Advancement thereof. *And* it is hereby declar'd, that the said Joint Stock, or Capital Fund, or any Part thereof, or any Estate, real or personal Ships, Goods, or other Effects of and belonging to the said Company, shall not be liable unto any Manner of Confiscation, Seizure, Forfeiture, Attachment, Arrest, or Restraint, for and by Reason of any Embargo, Breach of Peace, Letters of Marque or Reprizal, Declaration of War with any foreign Prince, Potentate, or State, or upon any other Account or Pretence whatsoever; but shall only be transferable, assignable, or alienable in such Manner, by such Parts and Portions, and under such Restrictions and Conditions, as the said Company shall by Writing in and upon their Books, Records, and Registers direct and appoint: And these Transfers and Assignments only, and no others, shall convey away the Right and Property in and to the said Joint Stock and Capital Fund, and Effects thereof, above-mention'd, or any Part of the same: And that the Creditors of any particular Member of the Company may, by their Diligence, affect the Share of the Profit arising and pertaining to the Debtor, without having any farther Right or Power of the Debtor's Part and Interest in the Stock or Capital Fund, otherwise than is above appointed, and with this express Provision, that whatever Charges the Company may be put to by the Contendings of the Assignees of Members deceas'd, Creditors, or any other Persons in their Rights, the Company shall make Retention of their Charges and Expences in the first Place; and the Books, Records, and Registers of the said Company, or authentick Abstracts of the same, are hereby declar'd to be good and sufficient Evidence in all Courts of Judicature, and elsewhere. *And* his Majesty, with Advice aforesaid, farther declares,

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clares, That the said *John Lord Belhaven, Adam Cockburn, &c.* and others to be join'd with them, or assum'd by them, in Manner above-mention'd; and their Successors, or the major Part of them, assembled in the said Company, shall and may at all Times, by the Plurality of Votes, agree upon, make, constitute, and ordain, all such other Rules and Ordinances as may be needful for the better Government and Improvement of their Joint Stock or Capital Fund, in all Matters and Things relating thereunto: To which Rules, Orders, and Ordinances, all Persons belonging to the said Company, as well Directors as Members thereof, Governors, or other Officers Civil or Military, or others whatsoever, shall be subject, and hereby concluded; as also, to administer and take Oaths of Fidelity, and others requisite to the Management of the aforesaid Stock and Company. *And* the said Company is hereby impower'd to equip, fit, set out, freight, and navigate, their own or hir'd Ships, in such Manner as they shall think fit, and that for the Space of ten Years from the Date hereof: And that from any of the Ports or Places of this Kingdom (or from any other Parts or Places in Amity, or not in Hostility with his Majesty, in warlike or other Manner) to any Lands, Islands, Countries, or Places, in *Asia, Africa* or *America*; and there to plant Colonies, build Cities, Towns, or Forts, in or upon the Places not inhabited; or in or upon any other Place, by the Consent of the Natives and Inhabitants thereof, and not possess'd by any *European* Sovereign, Potentate, Prince, or State; and to provide and furnish the aforesaid Places, Cities, Towns, or Forts, with Magazines, Ordnance, Arms, Weapons, Ammunition, and Stores of War; and by Force of Arms to defend their Trade, and Navigation, Colonies, Cities, Towns, Forts, and Plantations, and other their Effects whatsoever: As also, to
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make Reprisals, and to seek and take Reparation of Damage done by Sea or by Land; and to make and conclude Treaties of Peace and Commerce with the Sovereigns, Princes, Estates, Rulers, Governors, or Proprietors of the aforesaid Lands, Islands, Countries, or Places, in *Asia*, *Africa*, or *America*; provided always, that all Ships imploy'd by them, shall return to this Kingdom with their Effects, under the Pain of Confiscation, Forfeiture, and Seizure of the Ship and Goods, in Case of breaking Bulk before their Return (except in a Case of Necessity, for preserving the Ship, Company, and Loading. *And* his Majesty, with Consent aforesaid, doth farther enact and ordain, that none of the Liege Subjects of this Kingdom, shall or may trade or navigate to any Lands, Islands, Countries, or Places in *Asia*, or *Africa*, at any Time hereafter, or in *America*, for and during the said Term of 10 Years from the Date hereof, without Licence and Permission in Writing from the said Company; and all such as shall act contrary, shall forfeit the third Part of the Ship or Goods, and of the Cargo or Cargoes therein, or the Value thereof, one Half to his Majesty, and the other Half to the said Company: For the effectual Execution whereof, it shall be lawful for the said Company, or any Persons employ'd by them, to seize the said Ships and Goods, in any Place of *Asia* or *Africa*, or at Sea, upon the Coasts of *Asia* or *Africa*, upon Transgression as aforesaid, by Force of Arms, and that without incurring any Crime for any Thing done in Prosecution thereof; (excepting always, and without Prejudice to any of the Subjects of this Kingdom to trade, during the said Term, to any Part of *America*, where the Colonies, Plantations, or Possessions of the said Company shall not be settled). *And* it is hereby farther enacted, that the said Company shall have the free and absolute Right

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and Property (holding of his Majesty and his Successors in Sovereignty, as an Acknowledgement, paying yearly a Hogshhead of Tobacco, if requir'd) in and to all such Lands, Islands, Colonies, Cities, Towns, Forts, and Plantations, that they shall acquire, establish, or possess, in Manner aforesaid; as also to all Manner of Treasures, Wealth, Riches, Profits, Mines, Minerals, Fishings, with the whole Product and Benefit thereof, as well under as above the Ground, and as well in Rivers and Seas, as in the Lands there-to belonging, or from or by Reason of the same in any Sort, together with the Right of Government and Admiralty thereof; and that the said Company may, by Virtue hereof, grant and delegate such Rights, Properties, Powers, and Immunities, and permit and allow such Sort of Trade, Commerce, and Navigation in their Plantations, Colonies, Cities, Towns, or Places of their Possession, as the said Company from Time to Time shall judge fit and convenient, with Power to them to impose and exact such Customs and other Duties upon and from themselves and others trading with, and coming to the said Plantations, &c. as the Company shall think needful for the Maintenance of the same, and other publick Uses; and with Power and Liberty to the said Company, to treat for and procure and purchase such Rights, Liberties, Privileges, Exemptions, and other Grants, as may be convenient for supporting, promoting, and enlarging their Trade and Navigation from any foreign Potentate or Prince whatsoever, in Amity with his Majesty; (for which the general Treaties of Peace and Commerce between his Majesty and such Potentates, Princes, or States, shall be sufficient Security) and if contrary to the said Rights, Liberties, Privileges, Exemptions, Grants, or Agreements, any of the said Ships, Goods, Merchandises, Persons, or Effects

fects whatsoever, belonging to the said Company, shall be stopp'd, detain'd, taken away, or in any Manner prejudic'd or damnify'd; his Majesty promises to interpose his Authority, in order to Restitution, Reparation, and Satisfaction made for the Damage done, and that upon the publick Charge, for what his Majesty shall expend on that Account. *And farther* it is hereby enacted, That all Ships, Vessels, Merchandise, Goods, and other Effects whatsoever, belonging to the said Company, shall be free from all Manner of Restraints or Prohibitions; and of all Customs, Taxes, Cesses, Supplies, or other Duties impos'd or to be impos'd, by Act of Parliament or otherwise, for and during the Space of, &c. (excepting always the Duties of Tobacco and Sugar, that are not of the Growth of the Plantations of the said Company). *And* it is hereby farther enacted, that the said Company, by Commission under their common Seal, or otherwise, as they shall appoint, may make and constitute all and every their Directors, Governors, Commanders in Chief, and other Officers, Civil or Military, by Sea or by Land; as likewise, that the said Company may inlist, inroll, agree with, and retain all such Persons, Subjects of this Kingdom, or others whatsoever, as shall be willing and consent to enter into their Service or Pay; provided always, that they levy none within this Kingdom, to be Soldiers, without Leave of his Majesty, or the Lords of his Privy Council; over which, Directors, Governors, Commanders in chief, or other Officers, Civil, or Military, and others whatsoever, in their Service and Pay, the Company shall have the Power, Command, and Disposition, both by Sea and Land. *And* it is farther declar'd, that no Officer Civil or Military, or other Person whatsoever, within this Kingdom, shall impress, entertain, stop, or detain, any of

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the Members, Officers, Servants, or others whatsoever, of or belonging to the said Company; and in Case the said Company, their Officers, or Agents, shall find or understand, that any of their Members, Officers, Servants, or others aforesaid, be impress'd, stopp'd, or detain'd, they are hereby authoriz'd and allow'd to release the Person or Persons so impress'd or stopp'd, in any Part of this Kingdom, either by Land or Water; and all Magistrates and others, his Majesty's Officers Civil and Military, and all others, are hereby requir'd to be aiding and assisting, &c. *And lastly*, all Persons concern'd or to be concern'd in this Company, are hereby declar'd to be free Denizens of this Kingdom; and that they, with all that settle to inhabit, or as are born in any of the aforesaid Plantations, Colonies, Cities, Towns, Factories, and other Places that shall be purchas'd and possess'd by the said Company, shall be reputed as Natives of this Kingdom, and have the Privileges thereof; and generally, without Prejudice of the Specialities aforesaid, his Majesty, with Consent aforesaid, hereby gives and grants to the said Company, all Powers, Rights, and Privileges, as to their Persons, Estates, Goods, and Effects, Rules, and Orders whatsoever, that by the Laws are given to Companies, allow'd to be erected for Manufacturies, or that are usually given in any other Civil Kingdom, or Commonwealth, to any Company there erected for Trade and Commerce. And for the better Establishment, and greater Solemnity of this Act and Gift in Favour of the said Company, his Majesty doth farther ordain Letters Patent to be made out hereupon, containing the whole Premisses under the Great Seal of this Kingdom, for doing whereof, these Presents shall be sufficient Warrant, to the Chancellor or Keeper of the Great Seal, as usual in like Cases.

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The Stat. 4 & 5 W. & M. c. 15. enacts, That for every Share in the Joint-Stock of the *African* Company, there shall be paid to their Majesties the Sum of twenty Shillings, by the Governor and Treasurer of that Company, at four quarterly Payments.

By Stat 9 & 10 W. 3. any of the Subjects of this Realm, as well as the *African* Company, may trade from *England*, or any of his Majesty's Plantations in *America*, to the Coast of *Africa*, between Cape Mount and the Cape of Good Hope; the said Company, and all others, answering a Duty of 10 per Cent. for the Goods and Merchandise exported, and the like Duty for Goods imported for the Maintenance of the Forts and Castles, on the Coasts, in Repair, &c. And all Persons paying the Duty, are to be protected in their Trade, as the Company.

The Collector or Officer of the Customs may deduct for his or their Trouble 5l. per. Cent. for the Duties arising by this Act, except from the Imports and Exports of the Company; and every Ship, which shall sail from *England* or the Plantations for the Coast of *Africa*, without being duly enter'd, &c. shall be forfeited.

Negroes are excepted, in respect to the Duty, for Merchandise between Cape Mount and Cape Blanco.

The Greenland Company, and the Greenland and Eastland Trades, &c.

BY Stat. 25 Car. 2. for retrieving the Whale-Fishery, &c. it is enacted, That it shall and may be lawful for all Subjects of the Realm of *England* and *Wales*, and Town of *Berwick* upon *Tweed*, and for every other Person or Persons of what Nation soever, residing and inhabiting here, during the Time of such their Residence, freely to trade into and from *Greenland*, and those Seas; and

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and there to take Whales, and all Sorts of Fish, and to import into this Kingdom all Sorts of Oil, Blubber, and Fins thereof, and to use and exercise all other Trade to and from *Greenland*, and those Parts. *And* for the farther Encouragement of the said Trade, be it enacted, That it shall be lawful for any Person or Persons, Native or Foreigner, to import Train-Oil, or Blubber, of *Greenland*, and the Parts adjacent, and those Seas, or of *Newfoundland*, or of any other his Majesty's Colonies and Plantations, made of Fish, or of any other Creature living in the Seas, and Whale-Fins, caught in any Ships or Vessels truly and properly belonging to *England* or *Wales*, or Town of *Berwick upon Tweed*, and imported in such Ships without paying any Customs or Duty for the same; other than for the Tun of such Oil taken by any Shipping belonging to any of his Majesty's Colonies and Plantations, and imported in such Shipping, there shall be paid 6 s. and for every Tun of Whale-Fins, taken and imported in such Shipping, the Sum of 2 l. 10 s. and for every Tun of such Oil, taken by the said Shipping, but imported in Shipping belonging to *England*, *Wales*, or Town of *Berwick upon Tweed*, the Sum of 3 s. and for every Tun of Whale-Fins taken and imported in such Shipping, the Sum of 1 l. 5 s. and for the Tun of all such Oil and Blubber of foreign Shipping, the Sum of 9 l. and for every Tun of Whale-Fins of foreign Fishing, the Sum of 18 l. and no more. *Provided* always, that no *English*-built Ship, or other Ship or Vessel belonging to *England*, *Wales*, or the Town of *Berwick upon Tweed*, importing Whale-Oil, or Blubber, or other Whale-Fins of *Greenland*, or those Seas, shall enjoy any Benefit or Privileges of this Act, unless such Ship or Vessel did proceed on her Voyage to *Greenland*, and those Seas, from *England*, *Wales*, or Town of *Berwick upon Tweed*,
and

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and was victuall'd for the said Voyage in some of those Places, to be attested by the Collector of the Port, where the said Ship or Vessel was victuall'd. And whereas by an Act pass'd in this present Parliament, entitled, *An Act for Encouragement of Shipping and Navigation*; and by several other Laws pass'd since that Time, Permission is granted to ship, carry, convey, and transport, Sugar, Tobacco, Cotton, Wool, Indico, Ginger, Fustick, and all other dying Wood, of the Growth, Production, and Manufactures of the Plantations in *America, Asia, or Africa*, from the Places of their Growth, Production, and Manufacture, to any other of his Majesty's Plantations in those Parts, (*Tangier* only excepted) and that without paying of Custom for the same, by Means whereof, the Trade and Navigation in those Commodities, from one Plantation to another, is greatly increas'd: And the Inhabitants of diverse of those Colonies not contenting themselves with being supply'd with those Commodities for their own Use, free from all Customs, while the Subjects of *England* have paid great Customs and Impositions, but contrary to the express Letter of the aforesaid Laws, have brought into other Parts of *Europe* great Quantities thereof, and do also vend great Quantities thereof to the Shipping of other Nations, who bring them unto divers Parts of *Europe*, to the great Diminution of the Customs, and of the Trade and Navigation thereof; *Be it* enacted, That if any Ship or Vessel, which by Law may trade in any of the Plantations, shall come to any of them, to ship and take on Board any of the aforesaid Commodities, and that Bond shall not be first given, with one sufficient Surety, to bring the same to *England* or *Wales*, or Town of *Berwick* upon *Tweed*, and to no other Places, and there to unload, and put the same on Shore, (the Danger of the Seas only excepted) that there shall

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shall be paid for so much of the Commodities as shall be laded and put on Board such Ship or Vessel these following Rates or Duties; that is to say, for Sugar white, the Hundred Weight, containing one hundred and twelve Pounds, five Shillings; and brown Sugar and Muscavado's, the Hundred Weight, containing one hundred and twelve Pounds, one Shilling and Six-pence; for Tobacco, the Pound, one Penny; for Cotton and Wool, the Pound, one Half-penny; for Indico, the Pound, Two-pence; for Ginger, the Hundred Weight, containing one hundred and twelve Pounds, one Shilling; for Logwood, the Hundred Weight, containing one hundred and twelve Pounds, five Pounds; for Fustick, and all other dying Wood, the Hundred Weight, Six-pence; and also for every Pound of Cocoa-Nuts, one Penny; to be levy'd, collected, and paid, at such Places, and to such Collectors and other Officers as shall be appointed in the respective Plantations, to collect, levy, and receive the same, before the Lading thereof, and under such Penalties, both to the Officers, and upon the Goods, for Non-payment of, or defrauding his Majesty of his Customs as in *England*. And, for the better Collection of the several Duties aforesaid, be it enacted, That this whole Business shall be order'd and manag'd, and the several Duties hereby impos'd, shall be caus'd to be levy'd by the Commissioners of the Customs of *England* now, and for the Time being, by and under the Authority and Direction of the Lord Treasurer of *England*, or Commissioners of the Treasury for the Time being: And in Case any Person or Persons, liable by this Law to pay any of the Duties aforesaid, shall not have Money wherewith to answer and pay the same, be it enacted, That the Officers appointed to collect the same, shall accept instead of such Money, such a Proportion of the Commodities to be shipped,

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shipped, as shall amount to the Value, according to the current Rate of the said Commodities in such Plantation respectively. *And* for the Encouragement of the *East-Land* Trade, be it enacted, That it shall and may be lawful, to and for every Person and Persons, Native or Foreigner, at all Times, to have free Liberty to trade into and from *Sweden, Denmark, and Norway*, any Thing in the Charter of the Governor, Assistants, and Fellowship of Merchants of *East-Land*, or any other Charter, Grant, Act, or any Thing else heretofore made or done, or hereafter to be done to the contrary in any wise notwithstanding. And farther, that whatsoever Person or Persons, Subjects of this Realm, shall desire to be admitted into the said Fellowship of Merchants of *East-Land*, That every such Person shall be admitted into the said Fellowship, paying for such his Admission, the Sum of forty Shillings, and no more.

By Stat. 4 & 5 *W. & M. c. 17.* a Joint Stock of 40000*l.* at least, is allowed to be subscrib'd and paid by the *Greenland* Company, establish'd by this Act.

The Company is to use the Trade and Merchandise of catching Whales into and from *Greenland*, and the *Greenland* Seas, and in all Seas and Places whatsoever, except in the Seas belonging to their Majesties Colonies and Plantations in *America*.

A Governor, Deputy Governor, and sixteen Committees, shall be elected, who shall have the Management and Direction of the Trade, and a Court be called, of all the Subscribers and others, who shall meet and chuse one fit Person, having subscrib'd 1000*l.* to be the said Governor, &c. but no Person, who shall subscribe, or have less in Stock than 500*l.* shall have a Vote.

All Members having the Sum of 500*l.* in the said Stock, may assemble themselves at a General Court, timely Notice being given, and make such By-Laws, as to them, or the greater Part of them, shall

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shall seem meet for the good Government of the said Company, and the Improvement of the Trade.

Goods of the said Company shall be publickly sold by Inch of Candle, and not by private Contract. And no Persons shall sell any greater Part of the said Stock, than such Sum only as they shall be possess'd of, *bona fide*.

By 5 & 6 *W. & M.* Ships belonging to the *Greenland* Company, shall pay 10*s.* per *Tun*, only for their own Blubber, Whale-Fins, or any other Merchandise, and not be oblig'd to pay according to the Measure of the Shipping; so likewise, Ships trading to *Newfoundland*, shall pay only for their Train-Oil, and other Merchandises 10*s.* per *Tun*.

The Stat. 10 & 11 *W. 3. c. 25.* declares, that all Whale-Fins, Oil, and Blubber, imported by the *Greenland* Company, shall not be liable to the additional Duty of 12*d.* for every 20*s.* Value of Goods imported, charg'd in an Act made *Anno* 8 & 9 *W. 3.* but to be free of the said Duties, as are all Fish taken by the *English*.

By Stat. 1 *Annæ, c. 16.* any of her Majesty's Subjects, that will adventure to *Greenland*, in fishing for Whales, shall have all Privileges granted to the *Greenland* Company, per 4 & 5 *W. & M.*

The Herring Trade, and other Fisheries.

FOR Prevention of Abuses in packing and ordering of Herrings, &c. the Stat. 15 *Car. 2.* enacts, That no white or red Herrings, of *English* catching, shall be put to sale in *England, Wales,* or the Town of *Berwick* upon *Tweed*, but what shall be pack'd in lawful Barrels or Vessels, and which shall be well, truly, and justly laid and pack'd; and shall be of one Time of taking, salting, saving,

ving, or drying, and equally well pack'd in the Midst and every Part of the Barrel or Vessel, by a sworn Packer; and the Vessel or Barrel mark'd or branded by such sworn Packer, with a Mark or Brand, denoting the Gauge of the Barrel or Vessel; and the Quantity, Quality, and Condition of the Herrings pack'd therein; and the Town or Place where they were pack'd; and the Bailiffs of *Great Tarmouth* for the Time being, and Mayor, Bailiffs, or other Head Officers for the Time being, of every Port, Haven, or Creek, out of which any Vessels or Ships do proceed to fish for Herrings, are hereby authoris'd and required, before the first Day of *July*, yearly to appoint for their respective Haven, Port, or Creek, a competent Number of able and experienc'd Packers, to view and pack all such red Herrings of *English* catching, as shall be brought into their Port, Haven, or Creek, and well and truly to mark and brand the Barrels or Vessels into which they shall be pack'd, with such Mark or Brand as is above directed, and to administer to them an Oath for the faithful doing thereof according to this Act: And in Case the said Bailiff, or other Head Officer for the Time being, of any such Port, Haven, or Creek, shall not appoint and swear such Packers, before such Time in every Year, as is by this Act requir'd, they shall, for every Default, forfeit the Sum of 100*l.* one Moiety to his Majesty, and the other to the Informer, who shall sue for the same in any Court of Record, &c. And for the better regulating of the *Iceland* and *Westmony* Fisheries, and Preservation of the Spawn of Fish there, be it enacted, That from and after the 25th Day of *December*, 1663, no Ship or Vessel shall proceed upon a shipping Voyage for *Iceland* or *Westmony*, out of any Port, Haven, or Creek, of *England* or *Wales*, or out of the Port of *Berwick* upon *Tweed*, until the 10th Day of *March*, yearly, under Pain of forfeiting
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of every such Ship or Vessel, with all her Furniture, Tackle, and Apparel, and all the Fish caught in such Ship or Vessel. *And* it is farther enacted, That no Person or Persons whatsoever, shall collect levy, or take, or cause to be collected, levy'd, or taken, in *Newfoundland*, any Poll or other Duty, of or for any Cod or Poor-John, or other Fish of *English* Catching, under the Pain of forfeiting double the Value of what shall be by them levy'd, collected, or taken, or caus'd to be collected, levy'd, or taken: And that no Planter, or other Person or Persons whatsoever, do cast or lay any Seme or other Net, in or near any Harbour in *Newfoundland*, whereby to take the Spawn or young Fry of the Poor-John, or for any other Use or Uses, except for taking of Bait only, upon Pain of the Loss of all such Semes or Nets, and of the Fish taken in them, or of the Value thereof, to be recover'd in any of his Majesty's Courts in *Newfoundland*, or in any Court of Record in *England*, or *Wales*, by Bill, Plaint, or other Action, &c. *And* it is farther enacted, That no Planter, or other Person or Persons whatsoever, shall burn, destroy, or steal any Boat, Cask, Salt, Nets, or other Utensils for Fishing or making of Oil, or other Goods or Merchandise, left in any Harbour in *Newfoundland* or *Greenland*, by *English*; or burn, pull down, or destroy any House built by *English* in *Newfoundland* or *Greenland*, to live during the fishing Season; or any Stage built by them in either of the said Places, for the saving or ordering of Fish, or making of Oil, upon Pain of losing double the Value of what shall be by them stoln, burn'd, or destroy'd, to be recover'd in any of his Majesty's Courts in *Newfoundland* or *Greenland* respectively, or in any Court of Record in *England*, &c.

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Herrings, and other Sea-Fish, may be transported in Vessels of the Subjects of this Realm, without paying any Duty, Stat. 12 Car. 2.

By Stat. 13 & 14 Car. 2. c. 24. None that adventure in the *East-India* or *Guiny* Companies, or put Money into any Stock for carrying on the Fishing Trade, and receive their Dividend in Goods, which they sell or exchange, shall, by reason thereof only, be liable to the Statutes of Bankrupt.

By 18 Car. 2. c. 2. If any Ling, Herring, Cod, or Pilchard, fresh or salted, dry'd, or bloated, or any Salmon, Eel, or Congers, taken by Foreigners, shall be imported or expos'd to Sale, any Person may seise the same; the one Half to be dispos'd to the Use of the Poor of the Parish where taken, and the other to the Taker.

Stat. 30 Car. 2. c. 9. if any Person shall in the River of *Severn*, fish with or make Use of any Engine or Device, whereby any Salmon, Trout, or Barbel, under the Length appointed by the Statute of 1 Eliz. shall be taken or destroy'd; or shall fish with any Net for Salmon, Salmon-peal, Pike, Carp, Trout, Barbel, Chub, or Grayling, the Mesh whereof shall be under two Inches and a Half square from Knot to Knot, or above twenty Yards in Length, and two Yards in Breadth, or above fifty Yards in Length, and six Yards in Breadth in the Wing of the Net, in the said River, from *Ripple Lock-Stake* to *Gloucester Bridge*, or above sixty Yards in Length below *Gloucester Bridge*, and six Yards in Breadth in the Wing of the Net; or shall fish with more than one of those Nets at once, or shall use any Device for taking the Fry of Eels, he shall forfeit 5*l.* for every Offence, and the Fish and Instruments wherewith taken.

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By 5 & 6 *W. & M.* a Duty is granted upon Fish exported, (during the Continuance of the Duty upon Salt) from any Port or Place in *England, Wales,* and *Berwick*, to Parts beyond the Seas, *viz.* for every Vessel of Pilchards or Scads, containing 50 Gallons, 12*s.* every Barrel of white Herrings, 2*s.* 6*d.* every Barrel of red Herrings, 2*s.* every Barrel of Salmon 5*s.* and every Hundred of Cod-fish, Ling, Conger, or Hake 15*s.*

This Statute enacts, That the Officer of Salt shall cut off Part of the Tail of Cod-fish, Ling, or Hake, before the same shall be put on Board, that it may be known what Allowances have been obtain'd, and may mark any Vessel or Cask wherein Pilchards, Scads, Herrings, Salmon, or dry'd red Sprats are to be exported, that it may be known as aforesaid. 1 *Annæ*, c. 21.

And by Stat. 1 *Geo.* Masters of Ships or Vessels shall not import any Herring, Cod, Pilchards, Salmon or Ling, fresh or salted, dry'd or bloated, nor any Grill, Mackarel, Whiting, Haddock, Sprats, Coal-fish, Gull-fish, Congers, or any flat Fish, or sell the same in *England*, which shall be taken by, bought of, or receiv'd from *Foreigners*, on Pain of forfeiting the Sum of 20*l.* to be levy'd by Distress of the Offender's Goods, and distributed, one Moiety to the Informer, and the other to the Poor of the Parish where the Offence was committed.

The Company of the Royal Fishery of England.

IN the 29th Year of the Reign of King *Charles the Second*, a Company was incorporated for promoting the Fishery of *Great Britain*, called, *The Company of the Royal Fishery of England*. And, as an Encouragement therein, his Royal Highness *James Duke of York*, *Thomas Earl of Danby*, and several other Persons of Distinction, were Traders and Adventures in the said Company. The Grants, Privileges, and Immunities for the Government of the said Company, and Management of their Affairs, were as follow :

To purchase Lands, Tenements, and Hereditaments, and dispose thereof to the Value of 1000*l.* per Annum.

To have and use a common Seal, in and for all Causes and Businesses of the said Company.

To meet together, elect, and appoint a Governor, Sub-Governor, or Deputy-Governor, and twelve Committees, yearly, for a Court of Assistants ; who, (or any three or more of them, whereof the Governor, Sub-Governor, or Deputy-Governor to be always one) are authoris'd to act in all Things according to such Rules, Orders, and Directions, as should from Time to Time be made and given unto them by the General Court : And, for want of such Orders, Rules, and Directions, to manage, govern, direct, and do what they should judge necessary and expedient for the well Ordering and Government of the said Company, and the Improvement of their Joint Stock and Trade, to all Intents and Purposes, as if the same were done at and by a General Court of the said Company.

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That the said Court of Assistants, or any seven or more of them, as aforesaid, as often as they shall find Occasion, may summon a General Court.

That no Assembly, or Meeting of the said Company shall be deem'd a General Court, unless the Governor, Sub-Governor, or Deputy-Governor, six of the said Committees, and five other Members of the Company, at least, be present.

That such General Court may admit other Persons to be Members; and may increase, contract, or divide their Joint Stock, as they shall think fit: And the Members thereof may grant, transfer, and assign their respective Stocks, as is therein mention'd.

That such General Court may ordain and establish such Laws, Ordinances, Orders, and Constitutions as to them shall seem convenient, for the Government of the Company, and their Affairs: And may impose Mulcts and Amerciaments upon the Breakers of such Laws; or may remit, pardon, or release the same, upon the Party's Submission. And upon Conviction of any Misdemeanour, may remove Offenders, and chuse others.

That they may fish in and upon all the Coasts, Creeks, Inlets, Rivers, Lakes, and Arms of the Sea belonging to the Kingdoms of *England*, *Scotland* and *Ireland*, or any of them; or any other his Majesty's Dominions, whereof the Fishings are not already granted, appropriated, or belonging to some particular or private Person or Persons, Bodies Politick or Corporate: And likewise in and upon the main Sea, or any Part thereof: And have free and full Liberty to carry and transport their Fish, and Oil made of Fish, to all Ports, Places, and Markets, both in *England* and beyond the Seas; and to sell the same for ready Money, or Commodities.

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That they may erect Store-houses, Ware-houses, Work-houses; and build and make Wharfs and Docks, in and upon any of his Majesty's Wastes, Commons, or waste Grounds adjoining unto or upon any publick Rivers or Seas, within any his Majesty's Dominions, without paying or rendering any Rent or Duty for the same.

That neither their Masters, Skippers, Steersmen, Ship's Crews, Mariners, Fishermen, nor others employed by the Company in their Fishings, whether Foreigners or Natives, shall be impanell'd, sworn, or compell'd to serve on any Juries or Inquests at *Westminster*, the Assises, Sessions, or elsewhere.

They had also granted unto them the yearly Sum of 20*l.* for each and every Dogger which they had, and which, within seven Years they should build in *England*, or any of his Majesty's Dominions; the same to be paid Quarterly out of the Customs within the Port of *London*, without farther War-rant or Direction. Also all and singular Privileges in the City of *London*, as fully and freely as any Company of Merchants, establish'd by Letters Patents, or Charters.

And all and singular Admirals, Vice-Admirals, General Commanders, Captains, Mayors, Sheriffs, Justices of the Peace, Custom-house Officers, and all other Officers, Ministers, People and Subjects of his Majesty whatsoever, were enjoin'd to be in all Things aiding and assisting to the said Company, and their Successors, their Factors, Agents, and Servants, in the Execution and Enjoyment of the Premises, as well at Land as by Sea, whensoever thereunto desir'd, &c.

These were the Privileges granted to the said Company; but their Stock first agreed upon, being too little to carry on an advantageous Trade, the Company, at a general Meeting, held the 8th of *March*, 1682, declar'd it was necessary for carry-

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ing on the said Trade, that a Stock of 30000*l.* should be raised ; and that all and every the then living Members of the said Company should, by a Time prefix'd, subscribe, and bind himself in a Bond of 1000*l.* to the Secretary of the said Company, to advance and pay 500*l.* to their Treasurer for their Adventures in the Stock of the said Company.

That for the Encouragement of Persons to become Adventurers in the Stock, in the room of such as should not subscribe, &c. it was order'd, that any five of the Court of Assistants, &c. should receive any Proposals that might be advantageous to the Company : As also to treat, contract, and agree with the Proposers thereof, for their being admitted into, and incorporated with the said Company.

And that the said Company should be reduc'd to the Number of forty-five Persons, or fewer ; but not under twenty-eight Persons.

After this the Stock was augmented to 300000*l.* one hundred thousand Pounds whereof to be subscrib'd by the surviving Patentees, and other the then present Members of the Company ; and two hundred thousand Pounds more by other Persons.

And it was declar'd, that one tenth Part of each Sum subscrib'd, should be appropriated to and for the Use of the Trustees, and of such Persons as they should find useful for and in promoting the Interest and Service of the said Company ; so as the same, nevertheless, should be and remain in the Stock for carrying on the Trade thereof : And the remaining nine Parts, to and for the sole Use and Benefit of the respective Subscribers, their Executors, Administrators, and Assigns.

To encourage the *Newfoundland* Fishing, &c. the Stat. 10 & 11 *W.* 3. gives a Power to, and appoints Admirals for the fishing Season ; who are those which first enter any Harbour or Creek in

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Newfoundland, yearly; and Differences relating to the Fishery there, are to be decided by such Admirals in their several Harbours, &c.

By 10 & 11 *W. 3. c. 24.* it is enacted, That no Fisherman, or other Person, selling any Sort of Sea-fish in *Billingsgate*-Market, shall pay any other Toll or Duty for coming with his Boat or Vessel, or landing, standing, or selling at the said Market, than as is hereafter mention'd, *viz.* for every Vessel with salt Fish, for Groundage, 8*d.* per Day, and 20*d.* per Voyage, in full of all Duties and Demands, to be dispos'd of as the Lord Mayor and Court of Alderman shall direct. For every Lobster-Boat, Vessel of fresh Sea-fish, and every Dogger-Boat or Smack with Sea-fish, for Groundage, 2*d.* per Day, and 13*d.* per Voyage; and for every Oyster-Vessel or Cock, for Groundage, 2*d.* per Day, for Metage, one Half-penny per Bushel, and 13*d.* per Voyage, and no more, in full for all Duties, &c.

All Persons buying any Fish in the said Market, may sell the same again in any other Market or Place within *London*, or elsewhere, by Retail, being sound and wholesome Fish; but none but Fishmongers shall sell in publick or fix'd Shops, or Houses.

Any Persons taking Toll, or any other Imposition, on Sea-fish of *English* Catching, (being contrary to the Act 5 *Eliz.*) shall forfeit 10*l.* one Moiety to the King, the other to the Prosecutor.

No Persons shall be employ'd by any other Person, in buying at *Billingsgate* any Quantity of Fish, to be divided by Lots or in Shares, among any Fishmongers or others, to be afterwards sold by Retail or otherwise; nor shall any Fishmonger ingross or buy in the said Market, any Quantity of Fish, but what shall be for his own Sale or Use, under the Penalty of 20*l.* for every Offence.

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No Fish taken by Aliens, (except Protestant-Strangers residing in this Kingdom) shall be imported in any foreign Ship or Vessel, not being wholly *English* Property, and sold in *England*, under Pain of forfeiting such Ship, &c. with its Tackle, and all the Fish so imported and sold; one Moiety whereof to the Poor, and the other to the Seisor.

But this Act shall not prohibit the Importation of Anchovies, Sturgeon, Botargo, or Cavier, &c. nor selling of Mackerel before or after Divine Service on *Sundays*. See Stat. 1 *Geo. ante* under *Her-ring Trade*.

By Stat. 2 *Annæ*, c. 14. no Cod-fish, Ling, Hake, Salmon, or dry'd red Sprats, &c. shall be imported, unless the Owner of the Fish, or Master of the Vessel, make Oath, before the Salt-Officer, where imported, that the Salt wherewith the Fish was cur'd, was laden from *England, Wales, or Berwick*, and when, and no Draw-back for the same had to his Belief; upon Forfeiture of the Fish, and double the Value by the Importer.

Nothing herein to prohibit the Importing Cod-fish, Ling, or Hake, caught and cur'd at *Newfoundland* or *Iceland*; Oath being first made by the Owner of the Fish, or Master of the Vessel, before the Salt-Officer there, that the said Fish came from *Newfoundland* or *Iceland*, and were caught and cur'd there; and the Fish, before Removal, being tender'd to have Part of the Tail cut off, that no Allowance be for such Fish upon Exportation; and if landed before tender'd to have Part of the Tail cut, the Fish, and double the Value is to be forfeited. 4 & 5 *Annæ*, c. 12.

The East-India Company.

IN the Reign of King *William*, a new Company trading to the *East-Indies*, was incorporated by Act of Parliament; they having lent the Government, for the Exigencies of the War, 2000000*l.* for which they receiv'd Interest after the Rate of 8*l. per Cent.* out of the Funds assign'd for that Purpose, (but that Interest hath been sunk by subsequent Acts to 6 and 5 *per Cent*). After this, the old and new Companies having a due Regard to their common Interests, for the Prevention of divers Inconveniencies that might otherwise have happen'd, both to themselves and the Nation in general; they agreed upon several Articles for the Union of the said Companies, as follows:

That the Effects of each Company be brought Home with all convenient Speed for their separate Accounts; that all possible Provisions be made for enabling both Companies to bring Home their Effects with Security; and that neither the Crown, nor the New Company, take any Advantage of the Old Company, under Pretence of Forfeiture.

That mutual Releases be given by each Company to the other, and to their respective Factors and Servants.

That the Old Company's 315000*l.* in the Funds, be, upon Execution of this Agreement, immediately united to the Capital Stock of the New Company.

That the Old Company do purchase, and the New Company do procure three Members to transfer to the Old Company, in their politick Capacity, 673500*l.* in the Capital Stock and Fund of 1662000*l.* with the Benefits, after the Execution of the Agreement, to arise thereby; so that the Old Company may have 988500*l.* in the said Fund,

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Fund, which will make the Old Company equal with the New in Fund and Title to the Trade. Which Stock of 673500*l.* shall be transferr'd as follows, *viz.* one Fourth at the Execution of this Agreement; one Fourth at, &c. one Fourth at, &c. and the remaining Fourth at, &c. each Fourth to be paid for at the Time of the Transfer at 100*l.* for 100*l.*

That the Old Company's dead Stock at home and abroad be valu'd at 33000*l.* and the New Company's dead Stock abroad and at home, at 70000*l.* And that the Old Company at the Time of transferring the First one Fourth Part of the said 673500*l.* do transfer all their dead Stock abroad and at home, to the New Company; the New Company paying for one Moiety thereof at the same Time 16500*l.* And that the Old Company do also pay to the New Company 35000*l.* for the Moiety of their dead Stock; and thereupon the Old Company shall have and be intitl'd to a Moiety of both the said dead Stocks, as Members of the New Company.

That the Old Company have the sole Benefit of their dead Stock at home for seven Years.

That the Members of the New Company transferring, shall be intitl'd to the Arrears of the Annuity until the Time of the several Transfers; after which Time, all Annuities arising by the Old Company's 315000*l.* shall be paid to such Persons as shall be appointed for that Purpose, by the said Old Company, for their Use.

That the New Company shall have the Benefit of all Money arising by Licenses granted before their Agreement; and also 5*l.* per Cent. on all Ships enter'd or clear'd out, before the Executing of the said Agreement; and the 5*l.* per Cent. that shall arise upon the Effects loaden on the Old Company's Ships, shall be wholly for the Benefit of the said Old Company.

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That each Company do desist from any separate Exportation from and after the Executing of this Agreement.

That during seven Years each Company shall have an equal Power in the Administration and Management of the Fund and Trade; and that for that Purpose, twelve Persons shall be yearly appointed by the General Courts of each Company respectively, out of the Courts of Committees and Directors of the said Companies, who shall be call'd in the New Charter, *Managers of the United Trade to India*.

That a new additional Stock shall be rais'd for Carrying on the future Trade, and be advanc'd in such Proportions as the said twenty-four Managers, or the major Part of them, shall, from Time to Time, appoint. The General Courts of each Company agreeing thereunto.

That during the Space of seven Years, the Old Company shall preserve their Stock in their polittick Capacity, and for that Time remain a separate Corporation, and transfer and assign in their own Books, as now they do; and at the End of the said seven Years, the Old Company shall transfer and assign in the Books of the New Company, their Share in the Fund to their several Members, who shall be then intitl'd to the same; and thereupon the said Members of the Old Company shall become, and be admitted Members of the New Company *gratis*.

That each Company do indemnify the other from their respective Debts and Demands; and that a proper Provision be made for that Purpose.

That the New Company, after the Executing of their Agreement, shall not take up any Money upon their Common Seal, or do any other Act, (except what relates to their separate Effects, as aforesaid) without the Concurrence of the Old Company.

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A Covenant to be enter'd into, that his Majesty shall make a Re-grant, within ten Days after the Making such Grant and Assignment, as aforesaid.

A Covenant, that the old Company within one Month after the said seven Years are expir'd, shall surrender their Charters and Corporation; and a Covenant that the King shall accept the same.

A Covenant, that the King within ten Days after such Surrender, shall make a new Grant to the same Trustees, and subject to the same Trust, of all such Estates and Effects of the old Company, as shall come to or devolve upon the Crown, by Reason of such Surrender.

That immediately from and after the said Surrender, the New Company do change its Name, and be call'd, *The United Company of Merchants of England trading to the East-Indies*. Nevertheless, the future Management of the said Stock and Trade, after the said Term of seven Years is expir'd, is to be according to the New Company's Charter of the 5th of *September*, 1698.

That for the better Attaining of the Purposes aforesaid, there be a tripartite Indenture to be executed by his Majesty, and both the said Companies, wherein such proper Covenants and Provisions may be made, as shall be thought reasonable, with proper Releases from his Majesty to each Company.

So that, as soon as the aforesaid Term of seven Years, allow'd for the Conveniency of Affairs on both Sides, is expir'd, the two Companies to be intirely one, in Name and Effect.

By 9 & 10 *W. 3. cap. 44*. For Raising a Sum not exceeding two Millions, and Settling the Trade to the *East-Indies*, it is enacted, That 160000 *l. per Ann.* arising by the Duties on Salt, stamp Vellom, &c. shall be a Fund for the Payment of Annuities to Subscribers: And any Sum to be subscribed not less than 100 *l. &c.* The King is impow-
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ered by Letters Patent under the Great Seal to incorporate the Subscribers: And Subscribers of 500*l.* may meet and chuse twenty-four Trustees, by Way of Ballotting; and Members of the Company are not to trade otherwise than in the Joint Stock, &c. No Company or particular Person shall trade to the *East-Indies*, before Security given to the Commissioners of the Customs, That all the Goods to be laden by or for them in the *Indies*, shall be brought to *England* without breaking Bulk, (the Danger of the Seas, Pirates, &c. excepted.)

An additional Duty of 5*l.* per Cent. shall be laid on all *East-India* Goods, trading pursuant to this Act, to be paid over to the general Society, or such Companies as may be erected, or their respective Treasurers, for Maintaining Embassadors, Forts, &c. and Defraying any other extraordinary Expences.

Persons trading to the *East-Indies*, not intitled to the same by this Act, shall forfeit Ship and Goods, and double the Value thereof, one fourth Part to the Prosecutor, and the other three Parts to the general Society or Company, they bearing the Charge of Prosecution.

The *East-India* Company is to pay their just Debts, and their Estates to be liable thereto; and to take Care not to owe at any one Time more than the Value of their Capital Stock, which shall be undivided; and if by any Dividends, their Debts at any Time exceed their Capital Stock, the respective Members shall be liable so far as the Shares they received upon such Dividends will extend.

The 11 & 12 *W.* 3. c. 10. enacted, That wrought Silks, Bengals, and Stuffs mix'd with Silk, of the Manufacture of *East-India*, China, &c. and Callicoes painted, dyed, or stained, imported, shall be prohibited to be worn in this Kingdom. This Statute

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tute was made for Encouraging our Manufactures at Home.

The *Stat. 2 Ann. c. 9.* enacts, That upon Importation of unrated Goods of the Product or Manufacture of *East-India* (and the Limits of the Charters granted to the Companies there) liable to pay Duties *ad Valorem*, by any Act of Parliament, an Entry shall be made in the Custom-house where imported; and Importers, before Landing, shall give Security by Bond, with two Sureties to pay the Duty according to the real Value (except of Coffee) when sold, and for Exposing the Goods to Sale, openly, by Inch of Candle, in a Twelve-month after imported.

The Value to be according to the gross Price; and out of the Values there shall be an Allowance of so much as the neat Duties payable amount to, (except 5 *per Cent.* payable by the Queen to the Companies) and so much as shall be allow'd the Buyers, for prompt Payment, and 6 *per Cent.* for Charges in Keeping the Goods till Sale. 6 *An. c. 19.*

Such unrated Goods, landed before Entry and Security, or without Warrant for Landing, sign'd by the Officer, shall be forfeited, or the Value thereof.

By *Stat. 6 Ann. cap. 17.* the *East-India* Company are impower'd by their common Seal, to borrow on the Security of their united Stock, any Sum or Sums of Money, not exceeding 1500000*l.* above what might be lawfully borrow'd thereon before this Act.

All Persons trading by License, shall enter their Licenses in the Books of the General Society, and take an Oath: And no Member of the Company, having Power to trade to the *East-Indies*, shall trade otherwise than in the Joint Stock thereof.

Proviso, That upon three Years Notice, and Re-payment of the two Millions, &c. (and 1200000*l.* appointed

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appointed to be advanc'd, and paid into the *Exchequer* by this Act) and of all Arrears due for the Annuities thereupon, then the Duty upon Salt, &c. and the Benefit of Trade, by this and the former Acts and Charters given, to cease. *Stat. 6 Ann.*

By 10 *Ann.* the *East-India* Company are granted the Privilege of entering all such Goods as they shall import, at the Custom-house, by Bills at Sight, or Sufferance; giving Security under their common Seal, for Payment of the Customs, Half thereof at the End of six Months, and the other Half at the End of twelve Months; and the Custom-Officers shall grant such Bills at Sight, or Sufferance, and make such Allowances as are to be made to other Merchants, paying their Customs before the Landing of their Merchandize.

The 10 *Ann. cap. 28.* (reciting the Act 9 *W. 3.* for Raising two Millions, and for Settling the Trade to the *East-Indies*, &c.) enacted, That the Proviso, Annuities, &c. relating to the *East-India* Company, shall be repeal'd; and that the Duties, &c. shall continue, and the *East-India* Company enjoy the Benefit of Trade granted by 9 *W. 3.* and 6 *Ann.* freed and discharg'd from the said Proviso or Condition, 'till three Years after the 25th of *March*, 1733. And then on Repayment of the two Millions, and of One Million two hundred thousand Pounds, the Duty on Salt, &c. and yearly Fund of 160000 *l.* therefrom arising, shall cease.

By 5 *Geo. cap. 21.* None shall act in the *East-Indies*, by Commission from a foreign Prince, under the Penalty of 500 *l.* And the *East-India* Company may arrest Persons abroad trading, and send them to *England* to answer, &c. And by 7 *Geo.* Goods put on Board, or taken out of any Ship bound to the *Indies*, (not belonging to the Company) shall be forfeited, and double Value, and the Master forfeit 1000 *l.* Also *East-India* Goods are not to be imported

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ported in *Ireland*, or the Plantations, but from *Great Britain*, on Pain of Forfeiture, &c.

The Attorney General may file Informations or exhibit Bills against clandestine Traders, who are to pay the Duty to his Majesty, and 30 *l.* per Cent. Damages to the Company.

The South-Sea Company.

BY Stat. 9 Ann. c. 21. reciting, That the Debts and Deficiencies still due and unprovided for, are computed to be 5130539 *l.* 5 *s.* 5 *d.* on Account of the Navy and Land-Forces, to the 29th of *Sept.* 1710; and 154324 *l.* 15 *s.* 8 *d.* for the Debt of the Ordnance; and 424791 *l.* 5 *s.* 4 *d.* for Transports, and 118656 *l.* 17 *s.* 9 *d.* for the Principal and Interest on Army and Transport Debentures, and 1225 *l.* 1 *s.* for the Principal and Interest to the 29th of *September* 1710, of deficient Tallies and Orders for Money, lent in an Act 8 *W.* and an Act 1 Ann. for laying Duties on Coal; and 378859 *l.* 5 *s.* 8 *d.* for Debts incurr'd between the 29th of *September* and the 25th of *December* 1710, in the Navy, Victualling, and Transport Offices, and for the Interest on the said Army and Transport Debentures; and 9375 *l.* upon Account of Subsidies to the Elector of *Hanover* and Duke of *Zell*, in all 7012857 *l.* 10 *s.* 11 *d.* and the Interest of some Part of the said Debts for one Year being 85000 *l.* the whole amounts to 7213571 *l.* 10 *s.* 11 *d.* reciting also that 1296552 *l.* 9 *s.* 11 *d.* was lent upon an Act made 8 Annæ, for continuing several Duties on Goods imported, and the Interest of the same, to the 25th of *March* 1711, is 74875 *l.* 19 *s.* and both Principal and Interest amount to 1371428 *l.* 19 *s.* 1 *d.* which being added to the Sum of Seven Millions, &c. amounts to 8585000 *l.* and the Interest

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terest thereof for three Quarters of a Year, due the 25th of *Decemb.* 1711, at 6 *per Cent.* is 386325 *l.* which being added to the Principal, amounts to 8971325 *l.* due for Debts and Deficiencies, &c. In Order to make a Provision for the same, and for Raising the farther Sum of 500000 *l.* which makes the total Sum to be provided for by this Act 9471321 *l.* The Duties upon Wines, Vinegar, Tobacco, *East-India* Goods, wrought Silks, Whale-Fins, &c. granted by the Act 8 *Ann.* were granted and continu'd for ever, for paying an Interest or Annuity, after the Rate of 6 *per Cent.* for all the said Sum to be advanc'd, until the Principal should be paid; which Interest amounts to the annual Sum of 568279 *l.* 10 *s.*

The Treasury shall quarterly in every Year, cause a true Account to be made of all Money brought into the Exchequer upon the Funds hereby appointed; and if upon making such Accounts, the Money shall fall short of one fourth Part of the annual Sum of 568279 *l.* 10 *s.* then the Deficiencies shall be made good by the Treasurer of the Navy, out of Orders and Tallies, &c. in his Hands, the said Payment to be made to the Cashier or Treasurer of the *South-Sea* Company.

And if there shall be any Deficiency in any one Year, it shall be made good out of the next Aids granted by Parliament.

The Queen may incorporate the Company by Letters Patent, that they may purchase Lands not exceeding the yearly Value of 1000 *l.* and all Tallies and Orders made out, in Pursuance of the Act 8 *Ann.* and in any publick Offices in *May*, 1711, shall be made Part of the Joint Stock.

Persons interested in Navy Bills, &c. shall be admitted into the Joint Stock, and become Members thereof in Proportion to their Sums, and the Bills, Tickets, and Debentures, and the Monies due thereon shall be cast up, and for every 100 *l.*

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receive an Interest for 100*l.* in the Joint Stock, and an Annuity of 6*l. per Cent.* 'till redeem'd, and so proportionably for a lesser Sum.

Until the 25th of *December*, 1713, the intire annual Sum of 568279*l. 10s.* shall be paid to the said Corporation; and within thirty Days afterwards, the Directors shall cause an exact Account to be made of the Capital Stock, and of the particular Tallies, &c. which have been taken into the Joint Stock, &c.

Over and above the said annual Sum, settl'd to be paid the said Company, there shall be farther paid to them the annual Sum of 8000*l.* out of the said Funds, towards the Charge and Management of the Company.

Stock and Shares in the Corporation, shall be a personal Estate, and be exempted from Taxes. And the Crown may appoint under the Great Seal, Rules for the Sharers in the said yearly Fund, and in the Stock of the Company; and every Part thereof may be transferr'd or assign'd.

Proviso, That Guardians may subscribe for Infants, and Executors and Administrators, Trustees and Mortgagees, possess'd of any Bills, may subscribe and put in such Bills into the Joint Stock; and so much of the said Stock shall be Assets in the Hands of Executors, &c. as the Bills would have been, had they not been made Joint Stock: And as to Trustees, and Mortgagees, the Stock they are intitl'd to, by the Bills, &c. shall be subject to the Trusts, and to the Equity or Redemption, as the Bills would have been, if they had not been put into the Joint Stock.

Bills, &c. which shall come to the Crown by Extent, where more than one are Sharers, shall be put in the Joint Stock, in such Manner as the Treasury shall direct; and the Stock for the Bills shall be appropriated to such Uses, as the Bills should have been apply'd, if the same had not been

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been put into the Joint Stock: And where Bills jointly belong to several Persons, every one, who hath an Interest in them, may subscribe, and put in his Part into the Joint Stock in his own Name, and shall accordingly be admitted as a Member for so much as his Share shall amount unto.

Members of the Company may be Members of Parliament; and shall not be liable to the Statutes of Bankrupt; and the Stock shall not be subject to any foreign Attachment; and Commissioners, nam'd in Pursuance of this Act, shall not be liable to any Incapacities, other than for Breach of Trust.

Proviso, That the yearly Fund shall be issued, and paid out of the Exchequer to the Company every Week, as fast as the Duties shall produce Money into the Exchequer for the same; so as by such weekly Payments, the Whole of the Annuities, at the End of every Quarter, be not exceeded.

The Corporation and their Successors shall, after the first of *August* 1711, for ever be vested in the sole Trade into and from all the Kingdoms and Lands on the East Side of *America*, from the River *Oroonoco*, to the Southermost Part of *Terra del Fuego*; and on the West Side thereof, from the said Southermost Part of *Terra del Fuego*, through the *South-Sea*, to the Northermost Part of *America*; and into and from all the Countries, Islands, and Places within the said Limits, which are reputed to belong to *Spain*, or which shall hereafter be found out or discover'd within the said Limits, not exceeding Three hundred Leagues from the Continent of *America*, between the Southermost Part of *Terra del Fuego*, and the Northermost Part of *America*, on the said West Side thereof; except the Kingdom of *Brazil*, and such other Places on the East Side of *America*, as are now in the Posses-

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sion of the King of *Portugal*, and the Country of *Surinam*, in the Possession of the States General.

The said Company, and none else, shall trade within the said Limits; and if any other Persons shall trade to the *South-Seas*, they shall forfeit the Ship and Goods, and double the Value thereof; one fourth Part to the Crown, another fourth Part to the Prosecutor, and the other two Fourths to the Use of the Company.

The Company shall be the sole Owners of the Islands, Forts, &c. which they shall discover within the said Limits, to be held of the Crown, under an annual Rent of an Ounce of Gold; and of all Ships taken as Prize by the Ships of the Company; and the Company may seize, by Force of Arms, all other *British* Ships trading in those Seas.

Commanders of Ships, employ'd in carrying on the Trade, not conforming themselves to such Directions as the major Part of the Directors of the Company shall appoint under their Hands, shall pay the Company double the Value of the Damage sustain'd by the Breach of such Orders; and shall be incapable to serve the Crown in any Place of Trust.

Persons born on Board any Ship employ'd in this Trade, or in any Place belonging to the Company, shall be deem'd natural-born Subjects.

Proviso, That upon Importation of any Goods by the said Company, the Officers of the Customs are requir'd to take Security for the Customs, by a Bond or Bonds under the common Seal of the Company, &c.

The said Bonds shall charge their annual Fund or Stock, and may be assign'd; and such Assignment shall vest a Property in the Assignee. And it shall be Felony to counterfeit the common Seal of the Company, or any of their Bonds, or
to

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to alter them, or offer to dispose of, or pay the same, knowing them to be forg'd or alter'd; or to demand the Money, pretended to be due thereon, of the Company: And this without Benefit of Clergy.

Proviso, That the Agents of the Company shall not sail beyond the Southermost Parts of *Terra del Fuego*, except thro' the Streights of *Magellan*, or round *Terra del Fuego*; nor go from thence to any Part of the *East-Indies*; nor return to *Great Britain*, or any other Port or Place, except thro' the said Streights, or by *Terra del Fuego*; nor trade in *East-India* Goods, or in any Places within the Limits granted to the United Company of Merchants of *England* trading to *East-India*, (such *India* Goods excepted, as shall be actually exported from *Great Britain*; and also such Gold, Silver, wrought Plate, and other Goods, and Commodities, which are the Produce, Growth, or Manufactures of the *West-Indies*, or Continent of *America*.) Neither shall they send Ships, or use them, or any Vessel, within the *South-Seas*, from *Terra del Fuego* to the Northermost Part of *America*, above three hundred Leagues to the Westward of and distant from the Land of *Chili*, *Peru*, *Mexico*, *Callifornia*, or any other the Lands and Shores of Southern or Northern *America*, between *Terra del Fuego* and the Northermost Part of *America*, on Pain of Forfeiture of the Ship and Goods; one Third to the Crown, the other two Thirds to the *East-India* Company.

The Crown may, by Letters Patent, direct a Stock, to consist of 20 s. upon every Hundred Pounds of the Capital Stock of the Company's, to be rais'd by the Members thereof in Proportion to their Adventures, to be employ'd in the Improving, Enlarging, and Carrying on the *Fisbery* of the Kingdom, for the Use of the Members of the Company.

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Proviso, That no Money shall be call'd from the Members of the Corporation for carrying on such Fishery, but by a General Court of the Company, after fourteen Days publick Notice in the *Gazette*.

That the Treasury may order any Tickets made out for Payment of Seamen, to be paid in ready Money; or to make any reasonable Allowance or Advance, in Consideration of such Tickets being put into the Joint Stock, if it shall appear that those Tickets have not been sold, dispos'd of, or parted with.

A Governor, Deputy-Governor, or Director, shall not be elected during the Time he shall be Governor, Deputy-Governor, or Director of the Bank, or of the *East-India* Company.

The Crown may by Charter grant farther Powers to the Company; and also empower the Company to make Laws for the better Government of the Trade to the *South-Seas*: And there shall be no Embargo on any of the Company's Ships, unless particularly nam'd.

The *Stat. 10 Annæ, c. 19.* enacts, That the Treasurers of the Navy and Ordnance, and the Paymasters of the Guards, Garrisons, and Land-Forces, or any other Officers or Persons, intitled to any Part of the Capital Stock of the *South-Sea* Company, for the publick Use and Benefit, (not being sold, apply'd, or dispos'd for publick Uses, in the *Act, 9 Annæ*, mention'd) may, by Warrant in Writing, from the Treasury, borrow any Sum of those who shall be willing to lend it upon the Credit of the said publick Stock; and allow Interest, not exceeding 6*l. per Cent.* to be paid quarterly from the Time of Lending, until the Re-payment of the Principal; and to assign, mortgage, and transfer the Shares of the said Stock to the Lender, upon Conditions of Redemption; and for Sale of the Stock so mortgag'd, in Default of Re-paying the Money

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Money borrow'd thereon, or for Nonpayment of the Interest thereof; and subject to such other Conditions, and in such Manner, as in such Warrants shall be prescrib'd.

Proviso, That all the Money which shall be borrow'd on the Credit of the said Stock, shall be apply'd by the Treasurers, Pay-Masters, &c. to such publick Uses whereunto the Stock so mortgaged would have been applicable in Pursuance of that Act, if no such Mortgage, Assignment, or Transfer, had been made; and they who borrow'd the Money shall be accountable for the Application thereof; and the *South-Sea* Company shall not be answerable for permitting the Stock to be transferr'd, &c.

By 10 *Annæ*, c. 26. it is enacted, That no more Tickets shall be subscrib'd, admitted, or taken into the said Stock; and that all the Tickets made or to be made out for the Sea Service, (except such as are already taken into the said Joint Stock) shall be paid in such Method as they might have been paid if they had not been directed by the Act 9 *Annæ*, to be subscrib'd and taken into that Stock; and such Sums of Money may be subscrib'd into the said Joint Stock for the publick Use, as might have been subscrib'd for that Use, if the said Tickets had not by the said Act been directed to be subscrib'd, and taken into the Joint Stock of that Company; and all the Stock which shall be subscrib'd into the said Joint Stock, shall be apply'd, and is appropriated to such Uses, as by the said Act are directed, for and concerning the Stock to be subscrib'd into the said *South-Sea* Company, for the Use of the Publick.

The same Stat. c. 30. reciting the Act 9 *Annæ* by which the *South-Sea* Company is incorporated, enacts, That at any Time after the 25th of *Decem.* 1716, upon one Year's Notice, and upon Payment by the Parliament of the principal Sum of which

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the Capital Stock of the said Company shall consist; and of all Arrears of Annuities by and out of the *surplus* Money of the Funds settled by the said Act, for Payment of the said Annuities to the Company, then all the Impositions and Duties by the said Act granted or appropriated, may be otherways dispos'd of by Parliament; and the said yearly Fund, and the Annuities out of the same, shall cease: But that the Corporation shall still continue for ever, and shall enjoy all Forts, Factories, and Acquisitions that they shall erect within the Limits of their Charter, and Lands and Tenements purchas'd by them in *Great Britain*, not exceeding 1000*l.* *per Ann.* And the Members thereof (without having any Share in the said yearly Fund so to be redeem'd) shall have the sole Benefit of Trade into the *South-Sea*, and elsewhere; and such Power of Trade in the Fishery, as by the said Act is directed, and all other Benefits, as if no Redemption had been made. And from and after the Redemption of the said yearly Fund, or after one Moiety thereof, or more, shall be redeem'd by and out of the *Surplus* of the Funds settled by the said Act for the Payment of the same; the said Governor and Company may, by By-Laws or Orders made at their general Court, direct how much, and what Part and Share in the then remaining Capital Stock or Yearly Fund, and the Money and Stock paid in for Trade, or gain'd thereby, shall qualify the Members of the said Company to give a Vote in any General Court, for the electing a Governor and Directors of the Company; and for the continuing and being elected in the said Offices.

By Stat. 12 *Annæ*, c. 1. the Bank of *England*, and others, may advance and lend any Sums of Money to the Treasurers of the Navy and Ordnance, and the Pay-masters of the Guards, upon the Credit of the Publick Stock of the *South-Sea* Com-

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Company, at such Interest, and upon such Assignments, Mortgages or Transferences, and subject to such Conditions of Redemption, &c. prescrib'd in the Act 10 *Annæ*.

By Act 3 *Geo. c. 9.* the Governor and Company of Merchants trading to *South-Seas*, are requir'd to advance and pay into the Exchequer, an additional Sum of two Millions, for which they are to receive an Annuity after the Rate of 5*l. per Cent. per Annum.* And to raise the two Millions, the Company is enabled to borrow Money upon Contracts, make Calls, take in Subscriptions, &c.

The Capital Stock of the *South-Sea* Company, is declar'd to be ten Millions; and the Company is to have an Annuity of 500,000*l.* for the same, and also 8000*l. per Annum* for Management.

By Stat. 6 *Geo. c. 4.* to lessen the Publick Debts (amounting to above 16 Millions) the Duties of Excise on Soap, Paper, &c. are granted, and to secure the *South-Sea* Company certain Payments. And by this Statute, the Company is empower'd to redeem Debts by Payment, or taking in Subscriptions for Stock, &c. And the *South-Sea* Company having advanc'd the Government above four Millions more, to raise this Sum, they may make Calls, take in Subscriptions, or grant Annuities, as they think fit. But after *Midsummer, 1727*, upon Payment of the Money borrow'd, the Funds to cease. The Company was likewise empower'd to Circulate Exchequer Bills, &c.

On this Statute the fatal *South-Sea* Scheme in the Year 1720, was Executed by some of the Directors in Power; who were afterwards by Stat. 7 *Geo.* punished for the great Abuse of their Trust, by raising Money out of their Estates, and disabling them to hold any Office, &c.

And to retrieve Publick Credit, by 7 *Geo. c. 5.* it was enacted; That Part of the Capital Stock of the *South-Sea* Company should be ingrafted into the
Capital

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Capital Stock and Fund of the Bank of *England*, and of the *East-India* Company. And Proprietors of Subscriptions were allow'd an Addition of Stock, &c.

Forging Names or any Power to transfer Stock, or Personating Proprietors in Transfers, &c. is made Felony by Stat. 8 *Geo. c. 22*.

The Russia Company.

THE Stat. 10 & 11 *W. 3. c. 6*. enacts, That after the 25th of *March*, 1699, every Subject of this Realm, desiring Admission into the Fellowship of *English* Merchants, commonly called, *The Russia Company*, on Request made to the Governor and Assistants of the said Fellowship, or three or more of them, shall be admitted into the said Fellowship and enjoy all Privileges, &c. granted thereunto, either by the Letters Patents, *Anno 1 & 2 Ph. & M.* or by the Act of Parliament of 8 *Eliz.* confirming the same; paying for such Admission, for the Use of the said Fellowship, only the Sum of five Pounds.

Every Person residing in any Out-Port, or other Place within this Realm, making Request to be admitted into the said Company, by his Agent or Deputy, and tendering five Pounds for such his Admission, the said Governor, &c. shall, under the Common Seal of the said Fellowship, within ten Days after such Request, appoint one or more Persons to admit him into the Freedom of the said Company, and to give him the Oath of a Freeman thereof.

Naval Stores imported from *Russia*, are to be accounted for to the Parliament. Duties on *Russia* Hides, see Customs and Stat. 9 & 10 *Anna*.

C H A P. X.

Articles of Copartnership made and enter'd into between Merchants and other considerable trading Persons.

A Copartnership enter'd into by two trading Goldsmiths.

Articles of Agreement indented, made, concluded, and agreed upon this 10th Day of June, in the Year of our Lord, 1717, and in the third Year of the Reign of our Sovereign Lord George, &c. Between A. B. of, &c. Goldsmith, of the one Part, and C. D. of, &c. of the other Part, in Manner following, That is to say,

I*mprimis*, It is agreed by and between the Parties to these Presents; and the said *A. B.* for and in Consideration of the Sum of, &c. to him in Hand paid by the said *C. D.* before the Sealing and Delivery hereof, *Hath* consented and agreed, to receive and admit the said *C. D.* to be Copartner with him in the using, exercising, and managing of the Art and Mystery, or Trade of a Goldsmith, which the said *A. B.* now useth, To which End and Purpose they the said *A. B.* and *C. D.* in Consideration of the special Trust and Confidence which each of them reposeth in the other, *Have*, and by these Presents do join themselves to be Copartners together, in the using, exercising, following, and managing the said Art, Trade, or Mystery of a Goldsmith, with all Things thereunto belonging, from the Day of the Date of these Presents, for and during, and unto the full End and Term of seven Years, from thence next ensuing

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suing, and fully to be compleat and ended. *And*
 for the better Management and Improving of the
 said Copartnership, they the said Copartners have
 deposited and put in, as a common Stock or Fund,
 the several Sums herein after mention'd; that is to
 say, The said *A. B.* hath deposited the Sum of
 600*l.* of, &c. and the said *C. D.* hath deposited
 the Sum of 500*l.* of like, &c. to remain and be
 as and for a common Stock, to be used and
 employed in and about the said Copartnership, du-
 ring the Continuance thereof, in Manner as is
 herein after mention'd and appointed. *Item*, It is
 covenanted, concluded, and agreed by and between
 the said Parties to these Presents; and the said Co-
 partners, each of them for himself respectively, and
 for his several and respective Executors and Admi-
 nistrators, doth severally covenant, promise, and
 grant, to and with the other Copartner, his Execu-
 tors and Administrators, by these Presents, in Man-
 ner and Form following; that is to say, That all
 and all Manner of Sum and Sums of Money,
 Costs and Charges which shall or may at any
 Time hereafter, during the Continuance of the
 said Copartnership, be laid out, disburs'd, or ex-
 pended, as well in or about the working at, using,
 exercising, or Management of the Art or Trade
 aforesaid, of what Nature, Kind, or Quality so-
 ever the same shall or may be, or in or about the
 buying of Silver, and other Materials whatsoever,
 or for the Payment of Servants Wages: As also
 for the Rent of the House wherein they do or
 shall dwell; and all and all Manner of Provisions
 necessary for the Maintenance of themselves and
 Families, and all other Charges and Disbursements
 in House-keeping, or otherwise howsoever, (Cloath-
 ing for themselves and Families only excepted) shall
 be from Time to Time, and at all Times here-
 after paid, satisfied, and discharg'd, out of the
 common Stock or Fund so deposited by them, to the

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the same Intent as aforesaid; in the expending, laying out, and disbursing whereof, they the said Copartners shall and will use their utmost Care and Industry, in the most Husband-like Manner, to preserve and manage the same to their joint Interest. *And also*, that they the said Copartners shall not, nor will at any Time hereafter, during the Continuance of the said Copartnership, use, exercise, or follow the Art, Mystery, or Trade aforesaid, to their or either of their private Benefit or Advantage; but shall and will at all Times use, exercise, and employ their best Endeavours, Skill, and Cunning, for their joint Interest, without any sinister or fraudulent Acts or Dealings whatsoever. In a more special Manner, the said C. D. shall and will chiefly apply himself to inspect into and give Directions in and about the Working-Part of the said Art and Mystery or Trade, without being oblig'd to work at the same in his own Person, but at his free Will and Pleasure. *And* the said A. B. shall and will employ and apply himself in and about the Management of the said Stock and the Shop, for the Merchandising the same, and getting in such Sums of Money as shall be intrusted during the said Copartnership; but so, as either of the said Copartners may, at their free Wills and Pleasures, meddle or inspect into all and every the Matters aforesaid, without any Lett, Interruption, or Denial whatsoever. *And also*, that neither they the said Copartners, nor either of them, shall at any Time hereafter, during the Continuance of the said Copartnership, lend, intrust, or give Credit to any Person or Persons whatsoever, any of the said Stock, or any of the Goods, Commodities, Wares, or Merchandise aforesaid, without the mutual Consent and Agreement of both the said Copartners first had and obtain'd, not exceeding the Sum of 10*l*. *And also*, that all such Gain, Profit, and Increase, which shall from Time
to

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to Time, during the Continuance of the said Copartnership, arise, grow, accrue, come, or be for or by Reason or Means of the Art, Mystery, or Trade aforesaid, shall be from Time to Time equally shar'd and divided between them the said Copartners, Share and Share alike, each to have a Moiety. *And also*, that all such Loss and Damage which shall or may arise, or be for or by Reason of bad Debts, or otherwise howsoever, in or about the Art, Mystery, or Trade aforesaid, shall be equally born and discharg'd by and between them the said Copartners. *And also*, that they the said Copartners, shall and will, at all Times during the Continuance of the said Copartnership, keep one or more just and true Book or Books of Accounts, wherein they the said Copartners shall enter and set down as well all and every the Sum and Sums of Money by them or either of them receiv'd and disburs'd, in and about all and every the Matters aforesaid, with the particular Thing and Things for which such Sum and Sums of Money were by them so receiv'd and disburs'd as aforesaid; as also all such other Matters and Things relating to the said Copartnership, which shall be needful and requisite to be enter'd and set down; which said Book or Books of Accounts shall be had and used in common, so that either of them the said Copartners, may at all Times resort, and have free Access to the same, without any Lett or Interruption. *And also*, that they the said Copartners, at the End of every three Months, during the Continuance of their said Copartnership, or oftner (if it be demanded by either of them) shall and will make, yield, and render to each other a true and just Account of all Rents, Disbursements, Losses, Gains, Debts, Credits, Stock and Stocks, and all other Thing and Things whatsoever, by them or either of them in their said Copartnership had, made, transacted, suffer'd,

suffer'd, receiv'd, and paid. *And* upon the making such Account, shall and will divide, part, and deliver each to the other their equal Moiety, Share, and Dividend of the Profits and Increase which shall then appear to be remaining, and being over and above the Stock or Fund aforesaid. *And* at the End of the said Term of seven Years, or other sooner Determination of the said Copartnership, (be it by Death of one of the said Copartners, or otherwise) they the said Copartners shall and will each to the other, or (in Case of the Death of one of them as aforesaid) the Survivor to the Executors or Administrators of the Deceas'd, make and render a final, true, just and perfect Account of all Things before-mention'd, and appointed to be accounted for. *And* shall then also adjust the same, and pay and deliver each to the other their equal Moiety, Share, and Dividend of all and every the Profits and Increase which shall then appear to be and remain. *And* finally, after such Account made and adjusted, and the Profits divided as aforesaid, he the said *A. B.* his Executors, or Administrators, shall then withdraw the said Sum of 600*l.* so by him deposited as a common Stock or Fund, as aforesaid. *And* the said *C. D.* his Executors or Administrators, shall then also withdraw the said Sum of 500*l.* so by him deposited as a common Stock or Fund, as aforesaid. *Provided* there be so much then remaining and to be had thereout; for and in Default whereof, they the said Copartners shall have, take, and receive proportionable to the respective Sums by them now deposited, as aforesaid. *And lastly*, it is hereby mutually covenanted, concluded, and agreed, by and between the said Copartners, that if it shall happen, that either of them the said Copartners, do depart this Life before the Expiration of the said Term of seven Years, and the Survivor of them shall continue the Art, Mystery or Trade
of

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of a Goldsmith; that then and in such Case, the Widow and Relict of such of the said Copartners as shall so happen to depart this Life, upon the Continuing the like Sum of Money as is before mention'd, to be now deposited by her respective Husband, as and for a common Stock or Fund, to be us'd as aforesaid, shall and may be admitted, receiv'd, and taken by the surviving Copartner, into the said Copartnership, in the Place of her said Husband; and have, receive, and from Time to Time hold and enjoy all and every the Rights, Privileges, Benefits, Advantages, Profits, and Interest of, in, and to the said Copartnership, for and during all the Rest, Residue, and Remainder, which shall be then to come and unexpir'd of the said Term of seven Years, as fully and amply in every Respect, to all Intents and Purposes, as her said Husband might or could have had and enjoy'd the same, had he surviv'd after the Expiration of the said Term. *In Witness, &c.*

Other Articles of Copartnership, with good Covenants.

Articles of Agreement indented, made, &c. between A. B. of, &c. of the one Part, and C. D. of, &c. of the other Part, in Manner following, viz.

I*Mprimis*, it is agreed by and between the said Parties to these Presents, that they the said *A. B.* and *C. D.* shall enter into a Copartnership for the managing of the Trade and Business of, &c. And they the said *A. B.* and *C. D.* do hereby join themselves to be Copartners together, as well in the Art or Trade of, &c. and all Things thereto belonging; as also in buying, selling, uttering, vending, and retailing of all Sorts of Wares, Goods,

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Goods, and Commodities, belonging to the Art or Trade of, &c. aforesaid, and all Things thereunto belonging; which said Copartnership is to continue between them, from the Day of the Date of these Presents, for and during and unto the full End and Term of ten Years, from thence next ensuing, and fully to be compleat and ended: And to that Purpose, he, the said *A. B.* hath, the Day of the Date of these Presents, deliver'd in as a Stock, the Sum of 1000*l.* and the said *C. D.* the like Sum of 1000*l.* of, &c. to be used, laid out, and employ'd in common, between them, for the Management of the said Trade of, &c. to their utmost Benefit and Advantage. *Item*, it is agreed by and between the said Parties to these Presents, and the said Copartners each for himself respectively, and for his own particular Part, and for his Executors, and Administrators, doth severally, and not jointly, covenant and grant to and with the other Partner, his Executors and Administrators, by these Presents, that neither of them shall follow the Trade to their Private Benefit, but do their utmost Endeavours for the Advantage of both. *And also*, that they the said Copartners shall and will, from Time to Time, and at all Times hereafter, during the said Term, pay, bear, and discharge, equally and proportionably between them, the Rent of the Shop, and Warehouses, which they the said Copartners shall hire for the joint exercising and managing the Art and Trade of, &c. aforesaid; and likewise all Manner of Sum and Sums of Money, Costs and Charges, &c. which shall be expended, and the Rent of the House they live in; and shall pay for all Manner of Provisions, Workmens Wages, &c. out of the common Stock or Fund deposited as aforesaid, &c. *And* for that Purpose, it shall and may be lawful to and for the said Copartners Monthly, *viz.* on the first Monday in every Month, during

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the Copartnership, to have and take out of their said Joint Stock, and the Proceed and Increase thereof, for their respective Uses and Occasions, towards paying the said House-Rent, defraying the Charge of House-keeping, and of Servants Wages, and all other incidental Charges, which may accrue in or about the Management of the said Joint Trade and Copartnership, the Sum of, *£*3*c.* viz. the said *A. B.* *£*3*c.* and the said *C. D.* *£*3*c.* which monthly and other Sum and Sums of Money, so to be taken out, shall, from Time to Time, be enter'd into the said Books of Account, by the Person that shall have or take out the same; and upon the next Account to be then after stated between them, shall be reckon'd and accounted for, and accepted and taken as Part of the Gains and Increase accruing by the said Joint Trade. *And* that it shall and may be lawful to and for each and either of the said Partners, to have and take in Turns, one or more Apprentice or Apprentices, or Covenant Servant, to be employ'd in and about the Business of the said Joint Trade, who shall be at the Command of both the said Partners. *And* that all Monies, or other Things to be had or taken with any such Apprentice, shall go and be receiv'd to and by both the said Copartners, Share and Share alike, and shall to that End be brought into the Joint Stock. *And* each and either of them the said *A. B.* and *C. D.* doth hereby for himself respectively, and for his several and respective Executors and Administrators, farther covenant, promise, and agree, to and with the other of them, his Executors and Administrators, by these Presents as followeth, that is to say, That neither of them the said Partners shall at any Time sell or deliver out upon Trust, and without ready Money, any Thing belonging to their Joint Stock and Estate; or trust out or lend any Money out of the Joint Stock, to any Person or
Persons

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Persons whereof the other of them shall forwarn him, and give Notice to the contrary, but at the only Hazard and Peril of him so trusting the same; and the Loss and Damage thereby accruing, shall be by him only sustain'd and made good, and not by the Joint Stock. *And* that neither of them the said Copartners shall at any Time, without Consent of the other, release or discharge any Debt, Duty, or Sum of Money, which shall be due or owing to them, on their Joint Account, or any Part thereof, or any Securities given for the same; but only such and so much as shall be actually receiv'd or brought into the Joint Stock. *Nor* shall either of the said Partners compound or agree to accept Part for the Whole of any Debt, Duty, or Sum of Money to them jointly owing or payable, without the Consent and Approbation of the other of them thereto in Writing first had and obtain'd. *And* that neither of the said Copartners shall at any Time, during the Continuance of this Copartnership, and before a final Partition made between them, become bound, Bail, or Surety, for, or with, or to any Person or Persons whatsoever, either by Bond, Bill, Promise, or otherwise, without the Privity or Consent of the other of them thereto in Writing first had and obtain'd. *And also* that the said Copartners shall and will at all Times during the said Copartnership, keep one or more just Book or Books of Accounts, &c. which said Book or Books shall be had and used in common, so that either of them the said Copartners may at all Times have free Access thereto. *And* that they the said Copartners, Yearly and at the End of every Year, during the Continuance of this Copartnership, or oftener (if requir'd by either of them) shall and will make, yield, and render to each other a true and just Account of all Disbursements, Losses, Games, Debts, Credits, Stock and Stocks, and all other Thing and Things

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Things whatsoever, by them or either of them in their said Copartnership, had, made, transacted, suffered, received, and paid. *And* upon the making up such Account, shall and will divide, part, and deliver each to the other, an equal Moiety, Share, and Dividend of the Profits and Increase which shall then appear to be remaining, and being over and above the Stock or Fund aforesaid. *And* at the End of the said Term of ten Years, or other sooner Determination of the said Copartnership, they the said Copartners shall and will each to the other, or, (in Case of the Death of one of them) the Survivor, the Executors or Administrators of the deceas'd, make and render a final, true, just, and perfect Account of all Things before-mentioned and appointed to be accounted for. *And* shall then also adjust the same, and pay and deliver each to the other, their equal Moiety, Share, and Dividend of all and every the Profits and Increase which shall then appear to be and remain. *And* after such final Account made and adjusted, and the Profits divided as aforesaid, the said Parties, their Executors, &c. shall then withdraw their said Sums of, &c. deposited as a common Stock as aforesaid. *And* as for the Debts which shall be due and owing to them on their joint and partible Account, they the said Copartners shall, as equally as may be, divide and part the same into two equal Shares, and then and thereupon shall cast Lots for the same; and the Debts which by such Lot shall fall out to the said *A. B.* his Executors or Administrators, together with the Securities concerning the same, (if any) shall be assign'd and set over to the said *A. B.* his Executors or Administrators; and he or they shall be fully empower'd to receive the same, to his and their own Use and Behoof without any Lett or Hinderance of or by the said *C. D.* his Executors or Administrators. *And* the Debts, which by such
Lot

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Lot shall fall out to the said C. D. shall be assign'd and set over unto the said C. D. his Executors or Administrators ; and he or they shall be fully impower'd to receive the same, and to his or their own Use and Behoof, without any Lett or Hinderance of or by the said A. B. his Executors or Administrators. *And farther,* That they the said Copartners, their Executors or Administrators, shall, within six Months next after such Account and final Partition and Division made and pass'd as aforesaid, or as soon after as the same shall become due, satisfy and pay his and their proportionable Part and Share of all the Debts, Dues, and Sums of Money which shall then be due or owing by or from them the said Copartners, upon their Joint Account, and in respect only of their said Copartnership ; and therefore and therefrom shall always save and keep harmless each other, and the Executors and Administrators of each other, according to the true Intent and Meaning of these Presents. *And lastly,* It is mutually covenanted, concluded, and agreed, by and between the said Parties to these Presents, for themselves, their Executors, and Administrators, that if any Doubt, Question, or Controversy, shall happen or arise between the said Copartners, for, about, or concerning these present Articles, or any Covenant, Clause, Condition, or Agreement, herein contain'd, or any Defect, or Want of Explanation of any Matter or Thing relating to this Copartnership ; that then, and in such Case, and as often as any such Doubt, Question, Controversy, or Difference shall arise or happen, the same shall be referr'd unto two indifferent Persons, to be nominated and chosen from Time to Time, by the said Copartners, within ten Days next after such Doubt or Controversy shall arise or happen, (each and either of the said Copartners to chuse one) to be by the same two Persons so

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indifferently chosen, heard, and determin'd ; or else by an Umpire, to be nominated and appointed by the said two indifferent Persons, in Case they themselves cannot agree and compose the same. *And* that each and either of them the said Copartners, and his respective Executors and Administrators, shall and will stand to, abide, perform, and keep, such Order and Determination therein, as the said indifferent Persons, or the said Umpire, so to be chosen as aforesaid, shall make and give up between them the said Parties, so as the Order, Judgment, and Determination of the said, &c. be deliver'd in Writing, under Hand and Seal, within ten Days after the Controversy happening. *In Witness, &c.*

A Copartnership between four Merchants, with special Powers reserv'd to one of them in Commerce abroad.

THIS Indenture, *Quadripartite*, made, &c. between *A. B.* of, &c. of the first Part, *C. D.* of, &c. of the second Part, *E. F.* of, &c. of the third Part, and *G. H.* of, &c. (late Servant to the said *A. B.*) of the fourth Part, *Witnesseth*, That the said *A. B.* *C. D.* *E. F.* and *G. H.* in Consideration of the Trust and Confidence which every one of them the said Parties repositeth in the other of them, have join'd themselves together to be Copartners in the Trade of Merchandising ; (that is to say) in buying, selling, vending, and retailing of, &c. and all Sorts of Wares, and other Kind of Business belonging to the Trade of a Merchant. *And* the said Copartnership is to continue between them from, &c. for and during the Term and Space of three whole Years from thence next ensuing, and fully to be compleat and ended, (if all the said Parties shall so long live). *And* to that End and Purpose,

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Purpose, the said *A. B. C. D. E. F.* and *G. H.* have, before the Day of the Date of these Presents, deliver'd into Stock (to be us'd and employ'd in the said Trade of Merchandising, as well in the Territories of *England*, as elsewhere, in several Places and Parts beyond the Seas) in Money, Cloth, Wares, Debts, and Merchandises, adventur'd abroad, and here in *England*, such several Stocks, and Sum and Sums of Money, as are mention'd and express'd in the Schedule hereunto annex'd. *It is* now therefore covenanted, granted, concluded and agreed, by and between all the said Parties to these Presents; and each one of the said several Parties, for himself respectively, and for his several Executors and Administrators, do and doth severally and not jointly, nor one of them for the other, covenant and grant to and with each and every other of the said Parties and their several Executors and Administrators, by these Presents, in Manner and Form following; That is to say, That every and each of the said Parties shall, from Time to Time, during the said Space of three Years, (if all the said Parties so long live) continue and abide together as Joint Occupiers and Copartners; and that every and each of the said Parties shall, from Time to Time, during all the said Term, do their and every of their reasonable Endeavours, by all the Ways and Means that each of them can, to the uttermost of his Power, Skill, and Knowledge, to and for the Benefit, Profit, and Advantage of the said Copartners, with all or so much of the said Stock as shall in any Manner of wise come or be committed to each one of their several Charges, Dispositions, and Management, and the Gains and Increase thereof. *And* it is agreed by and between all the said Parties to these Presents, and their true Intent and Meaning is, That the said *C. D.* shall manage the Business and Affairs of, &c. in the

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Kingdom of *Spain*, during the good Liking of the said *A. B.* and there for the most Part reside, and have his Continuance and Being. *And* that the said *G. H.* shall manage the Business for, &c. in *Germany* and those Parts, also during the good Liking of the said *A. B.* and there for the most Part reside. *And* the said *A. B.* and *F. F.* shall manage the Business and Affairs at Home for *Great Britain*. *And* it is covenanted, granted, and agreed, by and between all and every the said Parties to these Presents, That all such Gains, Profits, and Increase, as shall grow and arise by Reason of their said Trade, and joint Occupying as aforesaid, shall, from Time to Time, be equally and indifferently parted and divided in Manner following; that is to say, To every one of the said Parties, their Executors and Administrators, a just, equal, and rateable Part, and Proportion, in and upon every 100*l.* rateably and proportionably, according to the Quantity of each one's several Stock, by them severally put in, and appearing in the said Schedule, for his and their Part of the Gains, Profit, and Increase, that the same shall amount unto; and also all such Loss and Detriment as shall happen by the said joint Occupying, by bad Debts, Loss of Adventures or otherwise, shall be equally born and sustain'd, without Fraud or Covin, by the said Copartners, in their several Proportions of the said Stock, according to the Manner and Form of the Dividend of the Gains aforesaid. *And* it is also covenanted, granted, and agreed, by all and every the said Parties to these Presents; and each one of the said Parties respectively for himself, his Executors and Administrators, do and doth severally, and not jointly, covenant, promise, grant, and agree, to and with every and each other of the said Parties, his and their several Executors and Administrators, by these Presents, That there shall be

be had and kept from Time to Time, during all the Time of their joint Occupying, and Copartnership together as aforesaid ; as well for the Accounts and Affairs here in *England*, as likewise for the several Accounts and Affairs severally beyond the Seas ; perfect, just, and true Books of Accounts and Reckoning of all the said Trade and Dealing, and of all Things relating to and concerning that Place and Places, and the Business and Affairs thereunto belonging, wherein or whereunto he or they shall be us'd or employ'd, or which shall be us'd or occupy'd, by Reason of the said joint Trading. And that the said *A. B.* and *E. F.* shall have the Custody and keeping of the Books of Accounts for *England*, and all Things concerning the Trade for or in *England* ; and the said *C. D.* shall have the Custody and Keeping of the Books of Accounts for and concerning the said Trade in *Spain* ; and that the said *G. H.* shall have the Custody and Keeping of the Books of Accounts concerning the Trade in *Germany*. And that every of the said Books shall be, according to each one's Power and Ability, justly and truly kept, and therein enter'd and set down all Manner of Goods, Wares, and Merchandises whatsoever, either bought or sold, by Reason of the said Copartnership and joint Occupying ; with all Debts thereof or therefore, from Time to Time, to be made, together with all the Gains, Profits, and Increase, that shall come, arise, or be made, from, or by Reason of the said joint Occupying ; and also of all Costs, Charges, Losses, and Expences, as are or shall be expended, disburs'd, laid out, had, or suffer'd by any Ways or Means, by Reason of the said joint Occupying ; which said Books shall be us'd in common, to and for the Use of every and each of the said several Parties, their and every of their Executors and Administrators. And also that every and each of the

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the said Parties shall, from Time to Time, during their said joint Occupying and Copartnership together, as aforesaid, shew and make privy unto the other, and such of the Servants and Apprentices of each other, that will attend upon the said Trade, the Particulars of all the Affairs and Dealings of the said Trade, or that are needful and necessary thereabouts, to be made known and manifest. *And also*, that every and each of the said Parties, twice in every Year, yearly, during the said Term, or oftner, if Need require, at the reasonable Request of any of them unto the other, shall and will, to the best and uttermost of each one's Power and Knowledge, and as much as in them lies, make, yield, and render, unto every and each other, or to the Executors and Assigns of every and each other, at or in the City of *London*, a just, true, and perfect Account and Reckoning of all the said Stock and Stocks, in the said Schedule mention'd of all such Goods, Wares, and Merchandises, and ready Money, as at any Time hereafter, during the said Joint Trade and Occupying, shall come to any of their severall Hands, Custody, or Governance, or to the Hands of any other Person or Persons, to their or any of their severall or joint Uses, or by their or any of their severall or joint Deliveries or Appointments, or by the Delivery or Appointment of any of the Factors or Servants of them, by Reason of the said joint Occupying; and also of all the Gains, Profit, and Increase of the same Stock and Stocks, Goods, Wares, Merchandises, and ready Money, or otherwise, by Reason of the said joint Occupying: And also of all such Debts and Duties, as shall be owing to the said Parties, or any of them, or to any Person or Persons, by Reason of the said joint Occupying; and that upon the perfecting and finishing of every such Account, all the said Parties, their Executors

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cutors and Administrators, shall subscribe their Names to the same, witnessing each one's Consent and Agreement thereunto. *And farther*, That it shall and may be lawful to and for every and each of the said Parties, and the Executors and Administrators, Servants, Factors, and Assigns of them, and every or any of them, at all convenient and seasonable Times during their joint Occupying, at the Liberty and Pleasure of any of the said Parties, their or any of their Executors, Administrators, Factors, or Assigns, to have Access and Recourse to the Books of Account and Reckoning, and to the Notes and Remembrances appertaining to the same, or any wise concerning the said Trade and joint Occupying; and to search, peruse, and examine the same, for the better Discovery how and in what Condition the said joint Trade doth and shall, from Time to Time, proceed and stand. *And* it is farther covenanted, concluded, and agreed, by and between the said Parties to these Presents; and every one of the said Parties before-nam'd, for himself respectively, and for his several Executors and Administrators, do and doth severally, and not jointly, promise and grant, to and with the other of them, his and their Executors, Administrators, and Assigns, by these Presents, that no Bill, Writing, Contract, or Bargain, shall be made at any Time, during the said joint Occupying together in the Parts beyond the Seas, for any Matter touching the said Joint Trade, otherwise than in the Name of the said *A. B.* if the same may be conveniently done. *And* that, during the said Copartnership, there shall be no private Occupying, or Trade of buying or selling, had or us'd by any of the said several Parties, their Factors, Servants, or Apprentices, or any of them, or by any other, to or for their or any of their Uses, Benefit, or Behoof, in any Manner whatsoever, to the Hurt or Injury
of

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of the said Joint Trade, and other than such as that the Gains, Commodity, Advantage, and Profit thereof, shall equally be to the Use of them the said *A. B. C. D. E. F.* and *G. H.* proportionably, according to the Rate and Proportion of their several Stocks above-mention'd; *saving* that it shall and may be lawful to and for the said *A. B.* at his Liberty and Pleasure, with his Overplus of Stock, at any Time or Times, during this Copartnership, to use and follow a Trade to the *East-Indies*; and saving that it shall and may be lawful to and for all the said Parties, during the Term of their said Joint Trade, to deal with and for other Men, with whom they shall in no wise have any Partnership, and which shall not hinder or any Way prejudice the said Joint Trade; and to receive the Factorship for such their Dealing to their own proper Use, any Thing herein before contain'd to the contrary notwithstanding. *And* it is farther covenanted, granted, concluded, and agreed, by and between the said Parties to these Presents; and each one of the said several Parties for himself respectively, and for his several Executors, Administrators, and Assigns, do and doth severally, and not jointly, covenant, grant, and agree to and with the other of them, his Executors, Administrators and Assigns, by these Presents, That they the said *A. B. C. D. E. F.* and *G. H.* their and every of their Executors and Administrators, shall and will, within the Space of three Months next ensuing the Determination of the said Copartnership, whether the same be by Expiration of the said Term of three Years, or by the Death or Decease of any of the said Parties, whichsoever of the same shall first happen, at the Request of every or any of them unto the other, at the now Dwelling-house of the said *A. B.* situate in, &c. give and deliver a just, true, perfect, and final Account and Reckoning in Writing, to the
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uttermost of every and each Man's Power and Knowledge, of all and every the said Stock and Stocks mention'd in the said Schedule, and of all the Gains and Increase, Loss and Damage, which shall grow or be receiv'd to the same; and of all Goods, Wares, Merchandizes, and Commodities before that Time, had, bought, sold, or dealt in with the said Stock and Stocks, and Gains aforesaid; and of all Debts made and being due, Sum and Sums of Money, receiv'd, and paid out, by Means of the said Joint Trade; and generally of all Buying, Bargaining, Selling, Trading, and Merchandizing, by the said Parties, or any of them, with the said Stock and Stocks, and Gains thereof aforesaid. *And* that then, upon the Perfecting and Finishing of the said final Account, so as aforesaid to be made and done, (the Debts, Duties, and other Charges to be then owing or payable by the said Parties, or any of them, for and in Respect of the said Joint Trade, being first proportionably paid, deducted, and allow'd, and likewise the Losses in like Proportion born and sustain'd) all and every the Stock and Stocks in the said Schedule mention'd, then remaining, and the Gains and Increase which shall appear to become, and growing thereof, or by Reason of the Trade aforesaid, whether the same shall consist in Money, Wares, Debts, or otherwise, shall be indifferently parted, shar'd, paid, and divided, to and amongst the said Parties, their Executors and Administrators, in Kind, without Fraud or Deceit, proportionably, as each one's several Part shall justly and truly, in a true Reckoning and Computation thereof, arise and amount unto, upon every hundred Pounds thereof, according to the Quantity of each one's several Stock and Stocks in the said Schedule appearing and mention'd, and according to the true Intent and Meaning of these Presents. *And* that such Part and Portion of the said

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said Stock and Gains, as shall, upon Perfecting of the said final Account, appear to be and consist in Debts and Duties due and owing to the said Parties, or any of them, shall also, from Time to Time, as the same or any of them shall be recover'd or gotten in by the said Parties, or any of them, be also parted, shar'd, and divided to and among the said Parties, according to the like Order, Rate, Division, and Proportion, as is before herein express'd and set down: And that the said Parties, and every of them, their Executors and Administrators, immediately upon the Perfecting and Finishing of the said final Account, Partition, and Division, as aforesaid, shall and will do their and every of their best Endeavours, by all the lawful Ways and Means that they or any of them may or can, for the more speedy Recovery and Getting in of all and every the said several Debts and Duties, from Time to Time to be due or owing to them or any of them, as Part of the Gains and Stock aforesaid; and that the Charges of Recovery and Getting in the same shall be born and paid by all the said Parties rateably, according to the Quantity of their several Stocks and Gains aforesaid. *And* if it shall happen that any of the said Parties shall die or depart this Life during the said Copartnership, that then, in such Case, no Right of Survivorship shall hold or take Place, or be by them or any of them challeng'd, claim'd, or demanded in any wise; but that they the said Parties, and every of them, shall and may lawfully give, devise, dispose, and distribute, his or their Parts and Portions of the said Stock and Stocks, Gains, and Increase, to them severally and properly belonging, by the true Intent and Meaning of these Presents, by their or any of their last Wills and Testaments, or by any other Ways or Means, as fully and amply as they or any of them could or might do of their own proper Money or Goods,
not

not pertinent to this Joint Trade or Account. *And* likewise that the Executors and Administrators of every such Person and Persons so dying may have and enjoy his or their full rateable Part and Portion of the Stock and Stocks aforesaid, and of the Gains and Increase thereof, according to the true Intent and Meaning of these Presents, without any Lett, Trouble, Hinderance, or Interruption, of any other of the said Parties surviving, any Usage, Law, or Custom, to the contrary thereof notwithstanding. *And* that all and every the said Parties before-mention'd, their Executors and Administrators, at all Times, during the Continuance of the said Copartnership, and afterwards, until the whole Business shall be fully finish'd and brought to Perfection, by all the Ways that they possibly can, shall be aiding and assisting unto each other, their Executors and Administrators, for the Obtaining and speedy Getting in of every and each one's private and particular Part and Portions, to him or them to be due, upon the Partition or Division aforesaid, and that without Fraud or Covin. *And* each of the said Parties, for himself, his Executors and Administrators, doth covenant and grant to and with the other of the said Parties, his and their Executors and Administrators, by these Presents, That it shall not be lawful for the said Parties, at any Time, during the said Copartnership, or any of them, to take out or diminish any Part of the said Joint Stock, or any the Gains or Increase thereof, other than such Sum or Sums of Money, as hereafter in and by these Presents are licens'd and allow'd; and that no Charge shall, in any wise, be put to the Account of the said Copartnership, but such as shall be for the Merchandizing and Occupying of the Stock and Stocks aforesaid, and the Gains and Increase that shall arise thereby (unless it be for convenient House-Room, and Warehouse-Room, in the Parts beyond the

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the Seas; and for the Suing forth and Getting in of Debts and Duties belonging to the said Joint Trade, and other necessary Charges belonging to Merchandize in their Joint Trade, which are to be born by the general Account of the said Copartnership.) *And* that the Charges of Warehouse-Room, Dyet, Lodging, and such like, for the Time any of the said Parties shall be within the City of *London*, during the Term of the said Copartnership, shall be upon the particular and sole Charge of the said *A. B.* his Executors or Administrators. *And* it is covenanted, granted, concluded, and agreed, by and between all the said Parties to these Presents, and each one of the said Parties for himself respectively, and for his several Executors and Administrators, do and doth covenant and grant, that he the said *C. D.* his Executors and Administrators, by Way of farther Recompence, shall every Year, for and during all the Time of the said Copartnership, be allow'd out of the said Joint Stock, and general Account, the Sum of 150*l.* per *Ann.* of, &c. over and above all other his Gains and Allowances herein before-mentioned, to be paid the said *C. D.* his Executors and Administrators, on, &c. or otherwise, by him the said *C. D.* his Executors or Administrators, deducted out of his Account of the Produce and Management of the said Joint Stock. *And* that the said *G. H.* his, &c. by Way of farther Recompence, shall yearly be allow'd, &c. *And* that the said *E. F.* his, &c. shall be allow'd yearly, &c. any Matter or Thing before in these Presents contain'd to the contrary in any wise notwithstanding. *And* finally it is covenanted, granted, and agreed, by and between all the said Parties to these Presents, That if any Variance, Suit, Difference, Doubt, or Controversy shall happen to grow or arise by and between the said Parties, or any of them, for, upon, or by Reason of the said Trade and Copartnership, or
any

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any Matter or Thing thereupon depending, or upon or by Reason of any Matter or Thing in these Presents contain'd; that then, and so often as the same shall happen, and before any Suit, Arrest, or Trouble shall be attempted or begun by them, or any of them, against the other, all and every of the said Variances, Differences, and Controversies, shall, from Time to Time, be referr'd and submitted to the Hearing, Order, Award, and Determination of four honest and discreet Persons, being of the Company of *Merchant-Adventurers of England* for the Time being; whereof one shall be chosen by the said *A. B.* his Executors or Administrators; one other by the said *C. D.* his, &c. one other by the said *E. F.* his, &c. and the other by the said *G. H.* his, &c. as Arbitrators touching all and every the Premises, if they shall be content to undertake the Trouble of determining the Controversies to them referr'd, within the Space of one Month after such Reference and Submission to them made. *And farther, That they the said A. B. C. D. E. F. and G. H. and every of them, their and every of their Executors and Administrators respectively, for their several and particular Parts, shall and will, from Time to Time, stand to, obey, abide, perform, fulfil, and keep all and every such Award and Awards, Determination and Determinations, as by the said four Persons, so as aforesaid, to be chosen, shall from Time to Time, be had, made, and given in Writing, for and in Behalf of the said Parties, touching any Variances or Differences as aforesaid. In Witness, &c.*

An Indenture of Copartnership made between several Merchants, for the Management of a considerable Merchandize both here in England, and in foreign Countries, with great Variety of special Covenants.

THIS Indenture quadripartite, made, &c. Between *A. B.* of the City of London, Merchant, of the first Part, *C. D.* also of the said City, Merchant, of the second Part, *E. F.* likewise of the said City, Merchant, of the third Part, and *G. H.* of the City of London afore said also, Merchant, of the fourth Part, *Witnesseth*, That the said Parties, in Regard to the Trust and Confidence which each of them hath and doth repose in the other, have concluded and agreed to become Copartners and Joint Traders together in such Trade and Merchandize, as well within the Kingdom of *England*, as also in *Holland*, and elsewhere in Parts beyond the Seas, as they the said Parties shall think fit; and to extend their said Trade and Merchandize for their most and greatest Benefit, Profit and Advantage; and that for and during the Space of five Years, to be computed from the Day of the Date hereof. And to that End and Purpose, the said Parties have deposited a Joint Stock to be employ'd in and about the said Joint Trade; that is to say, the Sum of 12000 *l.* of lawful *British* Money, viz. the said *A. B.* for his Part 3000 *l.* the said *C. D.* for his Part 3000 *l.* the said *E. F.* for his Part 3000 *l.* and the said *G. H.* for his Part 3000 *l.* The said Stock to be occupy'd and employ'd together upon an Account of Fourths both in Profit and Loss, the Whole in four equal Parts to be divided; whereof the said *A. B.* his Executors and Administrators is and are to have and bear, for his and their Parts

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one fourth Part thereof, both in Profit and Loss; the said *C. D.* his Executors and Administrators, one fourth Part thereof, for his and their Part, both in Profit and Loss; the said *E. F.* his Executors, &c. another Part thereof, both in Profit and Loss; and the said *G. H.* his, &c. the other fourth Part thereof both in Profit and Loss, for his and their Parts, according to the true Intent and Meaning of these Presents. *Which* said Joint Trade and Business, for the Considerations herein after-mention'd, is to be done and perform'd in Manner following; that is to say, the said *E. F.* during the said Copartnership, is to have the sole Receiving, Keeping, and Charge of all the Cash and Money, and all the Cloths, Bays, and Stuffs; and all the Bonds, Bills, and Specialties belonging to the Joint Account here in *England*: And of all Goods and Wares to be receiv'd from beyond the Seas, for and upon the said Joint Account: And also the Charge of the Writing, true Keeping and Custody of the Books to be kept here in *England*, touching the said Joint Account and Business in Copartnership, within the Dwelling-house of the said *E. F.* in, &c. *London*, for the Time being; and the Buying of the said Cloths, Bays, and Stuffs; and the Selling of all Goods to be receiv'd from beyond the Seas; and the Receiving of Money, and the Ordering and Disposing of them, and the other Joint Business, is to be equally perform'd by the said *E. F.* and *C. D.* And that the said *G. H.* shall have the Management and Transaction of the Affairs relating to the said Copartnership and Joint Trade, which are to be manag'd, done and transacted in the Parts beyond the Seas. *Whereupon* it is concluded and agreed by and between the said Parties to these Presents; and every of the said Parties by and for himself, his Executors and Administrators, doth covenant and grant to and with each other of them, his Executors and

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Administrators, by these Presents in Manner following. *First*, That the said Copartnership shall continue without ceasing, as hereunder is set forth and declar'd, from the Day of the Date hereof, until the full End and Term of five Years, as aforesaid, and fully to be compleat and ended. *And* that every of the said Copartners in the several Businesses before-mention'd, to be by them severally done and perform'd; and all other Matters and Things touching the said Copartnership, shall and will from Time to Time, during the said Term of five Years, perform and do his and their best Endeavours for the most and best Profit and Advantage of them the said Copartners. *And* that each and every of them the said Copartners, shall and will be faithful, just and true unto the other of them therein. *And* that all Gains and Increase happening or coming by the said Joint Trade and Copartnership, shall be indifferently and equally parted and shar'd by and between the said Parties, their Executors and Administrators, as is before prescrib'd and mention'd. *And* that all Debts, Charges and Losses likewise arising, happening, and growing, for or by Reason of the said Joint Trade and Copartnership, shall be in like Manner paid, born, and sustain'd by and between the said Parties, their Executors, and Administrators, in four equal Parts, as before is mention'd, according to the true Intent and Meaning of these Presents. *And* that every of the said Parties shall, from Time to Time hereafter, perform and do his and their utmost Endeavours, as Need or Occasion shall require, to recover and obtain such Debts, Duties, Sum and Sums of Money, as by Reason or Means of the said Trade or Copartnership, shall be due or owing unto them from any Person or Persons, with the quickest Dispatch as may be. *And* shall not at any Time hereafter, do or procure, or cause to be done or procur'd any

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Act, Matter, or Thing whatsoever, to prejudice, hinder, or retard the Recovery, Obtaining or Getting in of the said Debts or any of them. *And* if it shall happen that the said Parties, or any of them, shall trust, or deliver out upon Credit, any of the Goods, Wares, Money, or Merchandizes belonging to the said Joint Account, to any Person or Persons, whom any other of the said Partners shall warn or admonish not to trust, that then, and so often such of them the said Partners which shall so trust and deliver out upon Credit any of the said Goods, Wares, Money, or Merchandizes to any such Person or Persons, shall and will within three Months next ensuing, answer and satisfy unto the said Joint Stock so much Money as the Goods, Wares, Monies, or Merchandize so to be trusted or deliver'd out, as aforesaid, shall amount unto (if within that Time full Satisfaction shall not be made for the same by the Person or Persons which shall be so trusted as aforesaid). *And* that in such Case, such of the said Parties so making Satisfaction therefore, shall and may have and enjoy the sole Benefit of the said Goods, Wares, Money, and Merchandizes by him intrusted, recoverable, and for which he shall have made Satisfaction, as aforesaid. *And* that every of them the said Parties, (if there be Occasion, and it may be conveniently done) shall in all his and their Buying and Selling, Dealings and Transactions, touching and concerning the Management of the said Joint Trade, request, and take the Advice and Direction of the rest of the said Parties, or of some or one of them. *And* that all such Losses as shall, without fraudulent Practice of any of the said Copartners, happen to come to the said partible Account by the Infidelity or Negligence of any Servant or Servants, Apprentice or Apprentices, or others which shall serve or dwell with any of the said Parties, shall be born and answer'd by

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the Master of such Servant or Servants only, by whom the same shall be occasion'd, done, or committed. *And* farther, that none of them the said Parties shall or will at any Time or Times hereafter, charge the Account of the said Copartnership with any other or more Debts, than only such as shall be pertinent to the same; and with such Charge only as shall be necessarily and justly disburs'd for and about such Goods, Wares, Commodities, and Merchandizes as shall be employ'd in or about the said Joint Trade or Copartnership, and for and about the Getting in, Recovery, and Obtaining of such Debts as shall be due and owing unto them, by Reason thereof; nor at any Time hereafter, during the said Space or Time of five Years, shall withdraw or take from the said Joint Stock and Account, any Sum or Sums of Money, or other Thing other than such as shall be disburs'd for the Recovery and Getting in of such Debts as are incident to the same, as is before express'd, and that without Fraud or Covin. *Saving* that it shall and may be lawful to and for every of them the said Parties yearly, during the said Copartnership, to have and take out of the said Stock belonging to their Joint Trade, for every of their particular and private Expences and Occasions, the several Sums following; that is to say, the said *A. B.* the Sum of 150 *l.* of, &c. the said *C. D.* the like Sum of 150 *l.* the said *E. F.* the like Sum of 150 *l.* and the said *G. H.* the like Sum of 150 *l.* of like Money. *And* saving also, that it shall and may be lawful to and for the said *E. F.* during the said Copartnership, in Respect of his House-rent, (wherein it is agreed one Part of the Business of the said Copartnership shall be transacted here in *England*) and for the extraordinary Pains of him and his Servants to be taken and perform'd in and about the said Joint Trade, and for his Expences in the Entertainment of Clothiers, yearly, to charge upon
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the said partible Account, and to be allow'd yearly out of the same the Sum of 100*l.* of, &c. over and above the said 150*l.* a Year, allow'd unto him as aforesaid. *Saving* also, for the said C. D. in respect of the extraordinary Pains of him and his Servants, to be taken in and about the said Joint Trade, and his Expences upon, and Entertainment of Clothiers, as aforesaid, and for his House-Rent, wherein another Part of the Joint Business aforesaid shall be acted and perform'd, to charge to the said partible Account, and be allow'd upon the same the like Sum of 100*l.* yearly, of like, &c. during the said Copartnership, over and besides the said 150*l.* yearly, to him allow'd as aforesaid. *And* saving, that it shall and may be lawful to and for the said G. H. in respect of his extraordinary Pains to be taken in and about the said Joint Business, and for his Dwelling in the Parts beyond the Seas, where it is agreed he shall be employ'd in and about the said Joint Trade and Business, during the said Copartnership, there to charge the said partible Account, and to be allow'd the same here in *England*, the Sum of 75*l.* yearly, of like Money, during the said Copartnership; over and above the said 150*l.* a Year to him allow'd, as aforesaid. *Also* the Wages and Allowances to or for any Servant or Servants to be sent over, or to or for any Apprentice or Apprentices where any shall be sent over, and employ'd in the said Business, into the Parts beyond Sea, (an equal Number of Apprentices of them the said A. B. C. D. E. F. and G. H. being employ'd in the said Joint Business). *And* also the Charge of any Warehouse or Warehouses to be taken or us'd beyond the Seas for the said Joint Business; and the Wages and Allowance of one extraordinary Servant, agreed to be hir'd by the said C. D. and E. F. for the Managing and Writing of the Books of Account to be kept here in *England*, concerning the said Joint Trade and Business,

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is hereby agreed by and between the said Parties to these Presents, to be paid and allow'd out of the said Joint Stock. *And* the said *G. H.* for himself, his Executors and Administrators, doth covenant and grant to and with the said *A. B. C. D.* and *E. F.* and every of them, their and every of their Executors and Administrators, by these Presents, in Manner following; that is to say, That he the said *G. H.* shall not nor will at any Time or Times, during this Copartnership, leave, transfer, or commit the Business, Negotiation, or Employment, of or concerning the said Joint Trade or Copartnership, in any Place or Places beyond the Seas, where he shall have the full Charge and Disposition; nor any Bills or Specialties relating to the same to any Person or Persons whatsoever, other than such as shall be thought fit by the said *A. B. C. D.* and *E. F.* or the Survivors or Survivor of them, and their Consent and Agreement thereto in Writing, being first had and obtain'd. *And* farther, that he the said *G. H.* shall from Time to Time hereafter, during the said Copartnership, keep or cause to be kept in such Place or Places beyond the Seas, where he shall reside and continue to be employ'd, just and true Books of Account of all and every his Dealings and Transactions, touching or concerning the Premises in such particular and exact Manner and Form in every respect, as Merchants employ'd in the same Business commonly do. *And* shall not only send and consign weekly, (if it conveniently may be) unto the said *C. D.* and *E. F.* true Copies of his Journal, and Particulars of all Clothes, Wares, and Merchandises receiv'd and sold, Goods sent, and Money paid and sent by Exchange, and other his Dealings whatsoever, relating to the said Joint Trade; but also at the End of every six Months next ensuing each other, to be reckon'd and accounted from the Day of the Date of these Presents, during the said Copart-

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Copartnership, transmit unto them the said *C. D.* and *E. F.* a true, plain, perfect and general Account in Writing, under his Hand, of all his Receipts, Payments, Buyings, Sellings, and Dealings whatsoever, by him transacted or done, touching or concerning the said Copartnership; particularizing therein of all Expences, and all Cloaths, Wares and other Things then remaining in his Custody. *And* shall and will during the Continuance of this Joint Trade, (for the Considerations aforesaid) at his own Costs and Charges, pay for his Diet, Lodging, and Entertainment in the Parts beyond the Seas. *And* farther that it shall and may be lawful to and for the said *A. B. C. D.* and *E. F.* or any of them, or any of their Executors, Administrators, Servants or Assigns, at his and their Will and Pleasure, to have free Liberty, Ingrefs, Egrefs, and Regrefs into, out of, and from the Compting-house, Store-house, or Room of the said *G. H.* for the Time being in the Parts beyond the Seas: *And* shall and may upon Occasion, freely inspect and peruse the said Books of Account, and all Bonds, Bills, and Specialties whatsoever; as also all Wares, Goods, and Merchandises, and other Things whatsoever, in the Parts beyond the Seas, relating to the said Joint Trade, in the Hands, Custody, or Possession of the said *G. H.* *And* moreover, that he the said *G. H.* shall and will with all convenient Speed, from Time to Time hereafter, during the said Joint Trade, consign, remit, and send over to the said *A. B. C. D.* and *E. F.* from the said Parts beyond the Seas, in Money by Exchange, or in Wares and Merchandises, the Proceeds of all Wares, Cloths, and other Things that shall be by him receiv'd, and in his Disposition, touching and belonging to the said Joint Account. *And* farther, that he the said *G. H.* shall and will from Time to Time hereafter, during the said Copartnership, use his best Endeavours for the
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speedy taking up such Money in the Parts beyond the Seas for the said Joint Account, and otherwise advance the same to the utmost of his Abilities. *And also*, it is agreed by and between all the said Parties, that if the said *G. H.* shall at any Times or Times hereafter, take up or borrow at Interest, or otherwise, any Sum or Sums of Money for the said Joint Account, that then the said *A. B. C. D.* and *E. F.* and every of them, their and every of their Executors and Administrators, shall by these Presents, be liable to the Payment of the said Sum and Sums of Money, and every of them, as fully in every respect, as the said *G. H.* his Executors, Administrators or Assigns, provided the same do not amount in the whole to more than, *&c.* *And also*, if in Case the said *A. B. C. D.* and *E. F.* or any of them, shall at any Time or Times hereafter, take up, or borrow at Interest, or otherwise, any Sum or Sums of Money not exceeding, *&c.* on the said Joint Account, that then the said *G. H.* his Executors and Administrators, shall be liable and engag'd together with them the said *A. B. C. D.* and *E. F.* for the Re-payment of the said Sum and Sums of Money, and every of them, as fully in every Respect as they the said *A. B. C. D.* and *E. F.* or any of them, their or any of their Executors or Administrators. *And* the said *E. F.* for himself, his Executors and Administrators, and every of them, doth covenant and grant to and with the said *A. B. C. D.* and *G. H.* and every of them, their and every of their Executors and Administrators by these Presents, in Manner following; that is to say, that he the said *E. F.* shall and will from Time to Time, and at all Times hereafter, during the Copartnership, manage and keep, or cause to be manag'd and kept by such Servant or Book-keeper, to be hir'd and entertain'd as aforesaid, just and true Books of Account, Journals and Ledgers of all and every Receipts, Payments, Buyings, Sellings,

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Sellings, and other Dealings of the said *E. F.* and *C. D.* concerning the Premises here in *England*, in such an exact and particular Manner and Form in every Respect, as other Merchants commonly do. *And* at the End of every six Months, that is to say, on the 29th Day of *June*, and the 25th Day of *December*, yearly, during the said Copartnership, perfect the said Books, and render to each other of the Partners a true Ballance thereof. *And* farther, that it shall and may be lawful to and for the said *A. B. C. D.* and *G. H.* and every of them, their and every of their Executors, Administrators, Servants and Assigns, at convenient Times, at their and every of their free Wills and Pleasure, to have free Liberty of Ingress, Egress and Regress into, out of, and from the Dwelling-house of the said *E. F.* and his Compting-house and Ware-house there; and shall and lawfully may inspect and peruse all Books of Accounts, and also all Bonds, Bills, Writings, and Specialties, Goods, Wares, and other Things whatsoever, there in the Hands, Custody, or Charge of the said *E. F.* touching the said Joint Trade. *And* the said *C. D.* for himself, his Executors and Administrators, doth covenant and grant to and with the said *A. B. E. F.* and *G. H.* and every of them, their and every their Executors, Administrators, Servants, and Assigns, by these Presents, that he the said *C. D.* shall and will, during the said Copartnership, keep or cause to be kept true Accounts in Writing of all his Receipts, Payments, Buyings, Sellings, and other Dealings touching the said Joint Trade; and shall from Time to Time produce and shew forth the same unto the said *E. F.* and his Servants, and the said Servant to be hir'd as aforesaid, whereby the said *E. F.* or the said Servant may be enabled to keep the said Books and Accounts, Journal and Ledger of all Business whatsoever, relating to the said Copartnership here in *England*, in Manner aforesaid

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said. *And* farther, that he the said *C. D.* shall and will, during the said Copartnership, be equally aiding and assisting in the managing and keeping the said Books and Accounts for the Joint Stock here in *England*, within the said Dwelling-house of the said *E. F.* aforesaid. *And also*, that it shall and may be lawful to and for the said *A. B. E. F.* and *G. H.* and every of them, their and every of their Executors, Administrators and Assigns, at their and every of their free Will and Pleasure, at convenient Times, to have Liberty of Ingress, Egress, and Regress into and out of the Dwelling-house, Compting-house and Ware-house of the said *C. D.* for the Time being; and shall and may freely, as Occasion shall require, inspect and peruse all Books of Account, and all Goods, Wares, Merchandises, and other Things appertaining to the said Joint Trade, in his Custody and Charge. *And* the said *A. B. C. D. E. F.* and *G. H.* do covenant and grant, each of them for himself, his Executors and Administrators, to and with the other of them, his Executors and Administrators, and every of them, by these Presents, That they the said *A. B. C. D. E. F.* and *G. H.* shall and will respectively, during the said Joint Trade, for the Considerations aforesaid, bear and defray their own private and particular Charges and Expences, both for themselves, Servants, and Families. *And* that the said *C. D.* and *E. F.* shall and will make and draw, or cause to be made and drawn all Bonds, Bills, Specialties, and Contracts whatsoever, by them respectively to be taken and made, concerning the said Joint Trade here in *England*, in the Joint Names of them the said *C. D.* and *E. F.* for the Use of them the said *C. D.* and *E. F.* and of the said *A. B.* and *G. H.* *And* that the said *A. B.* and *G. H.* their Executors and Administrators, shall, by Force of these Presents, be jointly interested in, and engag'd for and concerning the same. *And farther*, it is covenanted, granted,

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granted, concluded, and agreed by and between all the said Parties to these Presents, and each of them by and for himself, his Executors and Administrators, doth covenant and grant to and with the other of them, his Executors and Administrators, in Manner following; that is to say, That if any or either of them the said *A. B. C. D. E. F.* and *G. H.* shall at any Time or Times, hereafter, during the said Copartnership, advance or lend unto the said Joint Account, any Sum or Sums of Money, (over and above their present Stock put in as aforesaid) as an additional Stock to be used and employ'd in the said Joint Trade and Copartnership, during the Continuance thereof, or for so long Time thereof as he or they so lending the same, or his or their respective Executors or Administrators shall think fit; that then it shall and may be lawful to and for such of them the said Copartners, their Executors or Administrators, upon three Months warning, to have, receive, and take forth out of the said Joint Stock and Gains in ready Money, such principal Sums of Money by them the said Copartners respectively lent to the said Joint Account, or such Part thereof as he or they lending the same, shall think fit. *And* also, that it shall and may be lawful to and for the said *A. B. C. D. E. F.* and *G. H.* or any of them respectively lending any Sum or Sums of Money, as aforesaid, for and during so long Time as the said Sum or Sums of Money, or any Part thereof shall remain and continue in the Account of this Copartnership, to take out of the said Account, Stock, and Gains thereof, and be allow'd the same according to the Rate of 6*l.* for every hundred Pounds, yearly, for Interest of such Money so to be lent or advanc'd, as aforesaid; and after the same Rate for a lesser Sum of Money; the same to be taken Half-yearly, without any Lett or Hindrance whatsoever. *And* farther, that none of them

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them the said Copartners shall at any Time hereafter, during this Copartnership, without the Consent of the other first had and obtain'd in Writing, enter into any Bond, or become Bail or Surety to or for any Person or Persons whatsoever, for any Matter, Cause, or Thing whatsoever, not being for the proper Use and Account of this Copartnership, in and above the Sum of 100 *l*. Nor that any of them the said Copartners shall at any Time or Times hereafter, during the said Term, directly or indirectly, use, exercise, or follow any Kind of Trade or Business whatsoever, the Gains whereof shall not or may not redound to the said Copartners jointly, their Executors or Administrators, or the Survivor or Survivors of them, in case any of them shall happen to die before the Expiration of the said Copartnership, ratably and proportionably, according to the true Intent and Meaning of these Presents. *And* farther, that none of the said Parties shall or will at any Time or Times, during the said Copartnership, consign, or send over any Goods, Wares or Merchandises whatsoever belonging to the said Joint Trade, to any Place or Places whatsoever beyond the Seas, other than what the greater Number of the said Copartners shall conclude or agree upon. *And* that all Differences arising in, about, or concerning the said Joint Trade, and the Management thereof, shall be decided and concluded by the major Part of them the said Copartners. *And* the said *A. B.* for himself, his Executors and Administrators, doth covenant and grant to and with the said *C. D. E. F.* and *G. H.* and every of them, their and every of their Executors and Administrators by these Presents, in Manner following; that is to say, That he the said *A. B.* shall and will from Time to Time and at all Times, during the Continuance of this Copartnership, on Request, be aiding and assisting, as far as in him lies, unto the said *C. D.* and *E. F.* in
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the taking up, borrowing, and advancing of any Sum and Sums of Money for the Benefit of the said Joint Stock, by Bond, or otherwise, when it shall be necessary. *And also*, that he the said *A. B.* in Consideration that the said Joint Business is to be wholly acted and perform'd here in *England* by the said *C. D.* and *E. F.* and beyond the Seas by the said *G. H.* and by such other Person or Persons as for the Time being shall be hir'd and employ'd by the said Copartners in the said Parts beyond the Seas, where none of the said Copartners, except the said *G. H.* is to reside, shall and will out of his own proper, private, and particular Estate, over and above the Payments and Allowances by him to be paid and allow'd, as aforesaid, well and truly pay and allow Yearly, during the said Copartnership, under the said Joint Account, the Sum of 200*l.* of, &c. to be paid altogether at the End of this Copartnership, or at the Decease of the said *A. B.* in Case he shall happen to die before the End and Expiration of the same. *Provided* always, and it is farther covenanted, granted, concluded, and agreed by and between the said Parties to these Presents, and every of them severally and respectively, and for their respective Executors and Administrators, that in Case any of the said Copartners shall happen to die before the Expiration of the said Term of five Years, and within three Months next after any Account shall be agreed upon, and ballanc'd between the said Copartners, or the Survivor of them; that then the Survivor or Survivors of them the said Parties, in full of the Part and Proportion of him or them so dying, in the said Stock of 12000*l.* and the Gains, Benefit, and Increase thereby then gotten and acquir'd, (Money lent to the Joint Account excepted) shall and will only be liable to pay, and shall and will pay unto the Executors or Administrators of the Party so dying within the said Term

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Term of five Years, and within three Months after Ballance of the said Account, as aforesaid, (the said Executors or Administrators first making good to the said Joint Account the Charge of him so deceas'd) so much Money as by the said last Ballance of Account, then before made up and agreed upon between the said Copartners, shall be due and coming to such of them the said Copartners, respectively dying as aforesaid, within six Months after such Decease, (the said Executors or Administrators respectively thereout allowing and abating to the surviving Copartners, for and towards the Losses that may happen to the said surviving Copartners by desperate and bad Debts due to the said Joint Account, so many Times thirty Pounds, as Half-years of the aforesaid Term of five Years shall remain unexpir'd at the Time of such Decease). *And* farther, that in Case any of the said Copartners shall happen to die before the End or Expiration of the said Term of five Years, and full three Months after Ballance of Accounts, as aforesaid, that then the Part of him or them so dying, shall run on upon Account, and be employ'd by the surviving Copartners in the said Joint Trade, until the next ensuing Time agreed by these Presents for the Ballancing of the said Account. *And* that the surviving Copartners, in full of the Part, Share, and Proportion of him or them so dying, of, and in the said Joint Stock of 12000*l.* and the Benefit and Increase thereby then gotten and arisen, (Money lent to the said Joint Account excepted) shall only be liable to pay, and shall pay upon such Decease, within six Months after the Account ballanc'd and made up, unto the Executors or Administrators of such of them the said Copartners dying within the said Term of five Years, and full three Months after Ballance of Account, (the same Executors or Administrators first making good to the said Joint Account the Charge of him

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or them respectively deceas'd) so much Money as by the said next Ballance of Account, to be made up by the Survivors of them the said Copartners, shall justly and truly appear to be due and coming to such of them the said Copartners so dying, as fully as if the Parties were living; the said Executors and Administrators respectively thereout allowing unto the said surviving Copartners, for and towards the Losses that may happen by bad Debts due to the said Joint Account, the Sum of, &c.

And also, that such of them the said Copartners as shall survive, shall and will save and keep harmless and indemnify'd the Executors or Administrators of such of the said Parties as shall so die, of and from all Bonds, Bills, Debts, and Engagements wherein and for which the Party so deceasing at the Time of his Decease stood bound or engag'd in the Joint Trade and Copartnership. *And* it is farther covenanted, concluded, and agreed by and between all the said Parties to these Presents, and each and every of them by and for himself, his Executors and Administrators, covenanteth and agreeth to and with the other of them, his Executors and Administrators respectively, by these Presents, in Manner following, that is to say, That if any one of them the said Parties shall die as aforesaid, within the said Term of five Years, (Satisfaction for his Stock, Part, and Share being made as aforesaid) that then the remaining Stock with all other the Joint Trade and Account, shall run on and continue during the Residue of the said Term of five Years, by and between the Survivors of them the said Copartners, and each of them to have a ratable Part and Proportion of the same, and of all Gain and Loss thereby arising. *And* farther, that at the End and Expiration of the said Copartnership and Term of five Years, or within three Months next ensuing, the said Copartners being all living, or the Survivors, in Case

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any of them shall be deceas'd, shall and will meet and come together, and adjust and make a true and perfect Account, at or in the Dwelling-house of the said *E. F.* for the Time being, or where otherways, for the Time being, the said Joint Trade shall be chiefly used here in *England*, as well for and concerning all their several Dealings for and about the said Joint Trade, of all such Money, Wares, Goods, Merchandises and Debts, that then shall be due, owing, or appertaining to the said Joint Trade, and unto them the said Copartners, by reason thereof, as of, for, and concerning all and every the Gains, Losses, Profits, or Charges of or by the said Joint Trade arising, growing, or happening in such particular Manner, as it may appear what the true State of the same shall then be, and what Proportion, and how much to every of them the said Parties shall be then coming due, and belonging. *And* shall and will also, within the said Time, or Space of three Months next ensuing the Expiration of this Copartnership, by equal Lots, or other Dividends, divide all Cloths, Wares, and Merchandises between them then remaining unfold, or not dispos'd of. *And* that immediately, and with all convenient Speed then after, all and every Debts and Sums of Money due from the said Joint Account, or by them the said Parties by Reason thereof, shall be duly paid, satisfy'd, and discharg'd, or otherwise equally secur'd by the Bonds or other Securities of them the said Copartners, or the Survivors of them, in Case the said Debts cannot be conveniently paid within the Time aforesaid. *And* as for and concerning the Remainder of the said Stock of 12000*l.* and all Gains, Profit, and Advantage by the same accruing, whether it shall consist in Debts or ready Money, or both, (the Money lent and added to the said Stock by any of the said Copartners, with the Interest thereof then due,

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being first paid and satisfy'd) the said remaining Money or Debts being divided into equal Parts and Portions, according to the Number of the said Copartners then living, the same shall, by Lots cast, or some other Way which they shall agree upon, be distributed to and amongst the said Copartners, or to such of them as shall be then living; whereby each may have an equal Part or Share of the said Stock, and of all Gain and Profit thereby obtain'd. *And also*, that every of the said Parties, his Executors and Administrators, for the better Recovery of such Debts and Sums of Money, as at the End and Determination of the said Term of five Years shall be due and owing, by Reason or Means of the said Copartnership, and as shall happen to be allotted and distributed for and towards the Parts and Portions of each of them, shall and will at any Time, upon reasonable Request, and at the Costs and Charges of such of them to whom any Debts shall be allotted, as aforesaid, make, or cause to be made, unto him or them, such sufficient Letter and Letters of Attorney for the more effectual Recovery of the said Debts, and every of them, to and for the only Use and Behoof of him or them to whom the same shall be so allotted, as aforesaid, as shall, by the said Parties to whom such Debts are assign'd, or their Executors or Administrators, or their Counsel learned in the Law, be reasonably devised, advised, or requir'd. *And* it is farther covenanted, concluded, and agreed by and between all the said Parties to these Presents, and each of them for himself, his Executors and Administrators, doth covenant and grant to and with each and every of the other of them, his Executors and Administrators, That no Right of Survivorship shall take Place in any Matter or Thing concerning this Joint Trade, against any of them the said Copartners, or any of their Executors or Administrators; but that it shall and

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may be lawful to and for any of the said Parties to leave, devise, and bequeath by Will, all his said Part, Portion, and Share of and in the said Stock and Gains, according to such Dividend as aforesaid. *And also*, that if any Doubt, Difference, or Controversy shall hereafter arise, happen, or grow between the said Parties, &c. concerning the said Copartnership, &c. that then and so often each and every of the said Parties, his Executors and Administrators, for his and their Parts, upon Request to each of them, his and their Executors or Administrators, to be made by the Party or Parties griev'd, shall and will commit the Hearing and Deciding of such Controversy, &c. to four indifferent Merchant-Adventurers, each to name one, &c. *And* it is also concluded and agreed by and between the said Parties to these Presents, that none of the said Parties, nor the Executors or Administrators of any of them, shall at any Time or Times, be charged or chargeable by Virtue of these Presents, farther than for his own proper Offence, or Breach of Covenants; and not for the Offence or Breach of Covenant of any other of the said Parties, his Executors or Administrators; any Thing herein before contain'd to the contrary notwithstanding, *And lastly*, it is agreed, That none of them the said Parties, nor any of their Executors or Administrators, shall or will, at any Time or Times hereafter, make, do, commit, or omit to do any Act, Deed, or Device whatsoever, with an Intent, in Part or in all, to defeat or make void these Presents. *In Witness, &c.*

A Deed

A Deed of Separation of a Copartnership.

THIS Indenture made, &c. between *A. B.* of, &c. of the one Part, and *C. D.* of &c. of the other Part. *Whereas* the said *A. B.* and *C. D.* have for some Time been Copartners together in the Trade of, &c. And by Reason of the said Joint Trade and Dealing, divers Debts are become due and owing unto them, and also they are indebted, and stand ingag'd in divers Sums of Money to others. *And whereas* the said *A. B.* and *C. D.* have separated their said Copartnership, and for divers good Causes them thereunto moving, have concluded and agreed, that for the Considerations herein after express'd, all the Debts and Sums of Money, which are due and owing unto them, the said *A. B.* and *C. D.* jointly, shall be assign'd unto the said *C. D.* And the said *C. D.* hath agreed and undertaken to pay and discharge all Debts and Sums of Money, which they the said *A. B.* and *C. D.* do jointly owe to any Person or Persons, for or by Reason or Means of the said Joint Trade and Copartnership. *Now this Indenture witnesseth,* That the said *A. B.* for the Considerations herein after mention'd, *Hath* granted, assign'd, and set over, and by these Presents doth grant, assign, and set over, unto the said *C. D.* his Executors, Administrators, and Assigns, all and singular such Debts, and Sums of Money, as are owing to him the said *A. B.* severally or jointly, with the said *C. D.* for or concerning their Joint Trade aforesaid, (*also here may be added,* And the Goods, Wares, and Merchandizes remaining unfold, &c.) And all his Right, Title, Interest, Property, Claim and Demand whatsoever, in and to the said Debts, &c. or any of them; and also all and singular Bills, Bonds, Specialties, and Writings whatsoever, for and con-

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cerning the said Debts, and the late Copartnership between them: All which Debts are mention'd and express'd in a certain Schedule hereunto annex'd. *To have, hold, and enjoy* all and every the said Debts, Specialties, and Writings, unto the said C. D. his Executors, Administrators, and Assigns, to his and their own proper Use and Behoof, without any Manner of Account therefore to be given to him the said A. B. his Executors, Administrators or Assigns. *And* the said A. B. doth by these Presents, give and grant to the said C. D. his Executors, Administrators, and Assigns, full Power and Authority, to ask, levy, recover, and receive, in the Name of him the said A. B. all and singular the said Debts and Sums of Money, express'd in the said Schedule, for and to the only Use and Behoof of the said C. D. his Executors, Administrators, and Assigns. *And* the said A. B. for himself, his Executors, Administrators, and Assigns, doth covenant and grant, to and with the said C. D. his Executors, &c. That if it shall appear, the said A. B. or his Assigns, or any Person or Persons by Virtue of any Power or Authority deriv'd from him or them, have at any Time heretofore receiv'd, releas'd, or discharg'd any of the said Debts or Sums of Money, mention'd in the said Schedule, that then upon Notice given thereof by the said C. D. his Executors, Administrators, or Assigns, to the said A. B. his Executors, &c. He the said A. B. his Executors, or Administrators, shall within one and twenty Days next after such Notice given to the said A. B. or his, &c. make a full Satisfaction to the said C. D. or his Assigns for the same. *And also* that he the said A. B. his Executors or Administrators, shall not, nor will, at any Time or Times hereafter, do, or suffer any Act, Matter, or Thing, to impede or hinder the said C. D. his Executors, Administrators, or Assigns; in the Getting in, Obtaining, or Recovery of the said Debts, or
any

any of them. *And further*, that he the said *A. B.* his Executors and Administrators, shall and will, upon reasonable Request to him or them made, by the said *C. D.* his Executors, Administrators, or Assigns, make, seal, and deliver to him or them, such other Powers, Letter, or Letters of Attorney as may be sufficient for the Recovery, and Getting in of the said Debts and Sums of Money, as by the said *C. D.* his Executors, Administrators, or Assigns, or his or their Council learn'd in the Law, shall be reasonably devised, advised, or required. *In Consideration whereof*, the said *C. D.* for himself, his Executors and Administrators, doth covenant, promise, and grant, to and with the said *A. B.* his Executors and Administrators, that he the said *C. D.* his Executors or Administrators, shall and will within one and twenty Days from the Date of these Presents, well and truly pay, or cause to be paid unto the said *A. B.* his Executors, &c. the Sum of, &c. And shall and will at or before, &c. next, obtain and procure to and for the said *A. B.* his Executors or Administrators, sufficient, general Releases, and other Discharges in the Law, from all the Creditors whose Names are mention'd in the second Schedule hereto annex'd. *And also*, that he the said *C. D.* his Executors or Administrators, shall and will at all Times, for ever hereafter, save, and keep harmless, and indemnified the said *A. B.* his Executors and Administrators, against all and every Person and Persons whatsoever, to whom they the said *A. B.* and *C. D.* or either of them are indebted, touching or concerning the said Copartnership; and of and from all Actions, Suits, Costs, Charges, Judgments, Executions, Damages, and Demands whatsoever, which shall at any Time hereafter arise, happen, and be brought against the said *A. B.* his Executors or Administrators, or his or their Lands, Tenements, Goods or Chattels, for or by Reason of any Debts or Sums of Money,

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owing, on Account of any Bill, Bond, Specialty, Promise, or Contract, touching the said Copartnership. *In Witness, &c.*

The Schedule of Debts to A. B. and C. D. to which the Indenture hereto annex'd, refers.

	<i>l. s. d.</i>
<i>Imprimis, from E. F. for, &c.</i>	50 0 0
<i>Item, from G. H.</i>	20 0 0
<i>Item, from J. K.</i>	30 0 0
<i>Item, &c.</i>	

C H A P. XI.

A Collection of Reports of extraordinary adjudg'd Cases concerning Marine Affairs, Contracts on the Sea, &c.

ALL Matters and Affairs transacted upon the Sea, relating to Commerce and Navigation, belong to the Jurisdiction of the Admiralty, and ought not to be remov'd from it: But the Cognizance of Contracts, Deeds, and Obligations, made upon, or beyond the Seas, not for or by Reason of any Marine Affair or Matter, may be remov'd from the Admiralty to the Common Law Courts.

And there having been several extraordinary Cases and Determinations in those Courts, which particularly concern Merchants, and Masters of Ships, &c. they are here inserted, with the Pleadings and Proceedings therein.



Case

Case I. Morfe and Sluce. A Trial at Bar.

Action upon the Case was brought against a Master of a Ship, who had taken in Goods to transport them beyond Sea, for that he so negligently kept them, that they were stolen away, whilst the Ship lay in the River of *Tbames*. *Maynard* insisted, that the Master was not chargeable: But it was answer'd, he is chargeable whilst he is here; but when he is gone out of the Realm, he is not chargeable, tho' the Goods be taken from him: Which Distinction, *Maynard* said, had no Foundation in the Law. *Hale*: It will lie upon you that are for the Defendant, to shew a Difference betwixt a Carrier and a Master of a Ship: And it will lie upon you that are for the Plaintiff, to shew, why the Master of a Ship should be charg'd for a Robbery committed within the Realm, and not for a Piracy committed at Sea. It was urg'd for the Plaintiff, that a Hoyman and Ferryman are bound to answer, and why not the Master of a Ship? The Defendant prov'd, that there was no Carelessness nor negligent Default in him. *Maynard* said, he is not chargeable, if there be no Negligence in him, because he is but a Servant, and the Owner of the Ship takes the Freight. *Hale*: He is *Exercitor Navis*; if we should let loose the Master, the Merchant would not be secure; and if we should be too quick upon him, it might discourage all Masters: So that the Consequence of this Cause is great. But the Jury gave a Verdict for the Defendant; the Court, for the Reasons aforesaid, inclining that Way. See *Case XIII.*

Case II. *Anonymus.*

A Libel in the Admiralty against a Ship, setting forth, That the said Ship wanted Necessaries *super altum mare*, and that the Master took up several Sums of the Plaintiff at Rotterdam, for which he did hypothecate the said Ship; and upon a Suggestion that this Contract was made at St. Katherine's, *infra Corpus Comitatus*, Counsel moved for a Prohibition, upon which a Question arose, Whether a Master of a Vessel could pawn it on the Coast for Necessaries, and the Person to whom pawn'd sue for the Money in the Admiralty here? It was argued, by the Common Law a Master of a Ship had neither a general nor special Property in it, and therefore could not pawn it; but by the Civil Law, in Cases of Necessity he may, rather than the Voyage should be lost; and if any such Cause appear, it is within the Jurisdiction of the Admiralty, but then the pawning must be *super altum mare*. The Stat. 28 H. 8. c. 15. which abridgeth the Jurisdiction of the Admiralty, in Trials of Offences committed on the Seas, ordering a Commission under the Great Seal, directed to the Admiral and others, according to the Course of the Common Law, and not according to the Civil Law, gives a Remedy in this very Case; for it provides, That it shall not be prejudicial to any Person for taking Victuals, Cables, Ropes, &c. in Cases of Necessity upon the Sea, paying for the same: So that this is an excepted Case, because of the Necessity; and it is like the Cases of suing for Mariners Wages. It is true, Prohibitions have been denied for Mariners Wages; on this Reason, because they proceed in the Admiralty, not upon any Contract at Land, but on the Merits of the Service at Sea, and allow or deduct the Wages according

according to the good or bad Performance of the Service in the Voyage. Beside, there is an Act of Parliament which warrants Proceedings in the Court of Admiralty for Mariners Wages. Now the Reason of the Civil Law, which allows the Pawning of a Ship for Necessaries upon the High Sea, seems to be plain; *viz.* because there may be an extraordinary and invincible Necessity at Sea, but not at Land: And that this being a Contract beyond Sea, and at Land, the Court of Admiralty cannot have any Jurisdiction over it; for where the Common Law cannot relieve, in such Cases the Admiralty shall not, because they are limited to Acts done upon the Sea, and in Cases of Necessity; for if the Law should be otherwise, the Master may take up as much Money as he will. But *Pollexfen contra*, That Things arising upon Land, may be sued for in the Admiralty, is no new Thing; for so it is in all Cases of Stipulation. Mariners Wages are recoverable in that Court, not by Virtue of any Act of Parliament, but being a Maritime Cause, though the Contract for that Service with the Master was at Land. The principal Reason why Mariners Wages are sued for in the Admiralty, is because the Ship is liable as well as the Master, who may be Poor and not able to answer the Seamen. *Curia*: Take a Trial upon the Necessity in this Case.

Case III. Beak *versus* 'Thynwit.

THERE was a Sentence in the Court of Admiralty, concerning the Taking of a Ship, and afterwards an Execution; and then Action of Trover and Conversion was brought for the same. The Defendant pleads, That at the Time of Conversion he was a Servant to King *Charles* the Second, and

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and Captain of a Man of War, and that he did seize the said Ship for the Governor of the *East-India* Company, she going in a Trading Voyage to the *Indies*, contrary to the King's Prohibition, &c. And upon a Demurrer, Exceptions were taken to the Plea; for that the Defendant setting forth that he was a Servant to the King, had not shewed his Commission to be a Captain of a Man of War; and that he having seised the Ship going to the *Indies*, contrary to the King's Prohibition, had not set forth the Prohibition itself. It was argued by the Counsel, *contra*, That it may be a Question whether this was the Conversion for which this Action is brought; for it was upon the Sea, and the Defendant might plead to the Jurisdiction of the Court, the Matter being then under the Cognisance of the Admiralty. But as to the Substance of this Plea, it is not material for the Defendant, either to set forth his Commission or the King's Prohibition; he hath shewed enough to entitle the Court of Admiralty to a Jurisdiction of this Cause, and therefore this Court cannot meddle with it; for he expressly affirmeth, That he was a Captain of a Man of War, and did seize this Ship, &c. which must be intended upon the Sea; so that though the Conversion afterwards might be upon the Land, yet the original Cause arising upon the Sea, shall and must be tried in the Admiralty; and it having already receiv'd a Determination there, shall not again be controverted in an Action of Trover. The Case of Mr. *Hutchinson* was cited to this Purpose, who killed Mr. *Colson* in *Portugal*, and was acquitted there of the Murder: The Exemplification of which Acquittal he produc'd under the Great Seal of that Kingdom, being brought from *Newgate* by an *Habeas Corpus* to *B. R.* And notwithstanding the King was very willing to have him tried here for that Fact, the Consideration whereof he referred to the Judges,

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they all agreed that he being already acquitted by the Law, could not be tried again here. *Adjournatur.*

Case IV. Radley and Delbow, versus Eglesfield, &c.

IN an Action upon the Stat. 13 R. 2. c. 5. &c. for suing the Plaintiff in the Admiralty for a Ship, pretending she was taken *Piratic*; whereas the Plaintiff bought her *infra Corpus Com'*. It seems there was a Sentence of Adjudication of her to be a lawful Prize in *Scotland*, in *April* 1667. as having carry'd contraband Goods in the *Dutch War*, and the Plaintiff bought her here under that Title. The Libel was, That the Ship belong'd to the Plaintiffs, and being laden with Masts, had Letters of safe Conduct from the Duke of *York* to protect her, &c. and that certain *Scotch* Privateers did practise to take the said Ship; and after the Defendants took her, and being requested, refused to deliver her, and that they suffered so much Loss, &c. The Defendants pleaded Not guilty, to this Action, and upon the Trial would not examine any Witnesses, but prayed the Opinion of the Court; who said there was good Cause upon the Libel, (which now they must take to be true) in the first Instance for the Admiralty to proceed. In 43 *Eliz.* it was resolved if Goods were taken by Pirates at Sea, though they are sold afterwards at Land, yet the Admiralty had Cognisance of them; for that which is incident to the original Matter shall not take away the Jurisdiction, and that is Law. And 22 *Ed.* 4. If Goods are taken by an Enemy, and re-taken by an *Englishman*, the Property is chang'd; otherwise if by Pirates. And if in this Case the Taking were not *Piratic*, it ought

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ought to have been alledg'd on the other Side. Had the Sentence in *Scotland* been pleaded in the Admiralty, the Court would have paid Deference to it; but for ought which appear'd, this might be the first Prosecution, and no Proceedings might have been in *Scotland*. This came to be tried at the *Nisi prius* before *Hale*, who was of the Opinion *ut supra*; and because it was a Cause of Weight, he order'd it to be try'd at Bar, for his Satisfaction and full Resolution, and the Jury was paid between the Parties. Note, a Proctor, sworn as a Witness, said, when this Cause was in the Admiralty, there was a *Provisionate Decree*, or *Primum Decretum*, which is a Decree of the Possession of the Ship, and upon that an Appeal to the Delegates; but my Lord Keeper being inform'd that no Appeal lay to them upon it, because it was but an Interlocutory Decree, upon hearing of Counsel, he superseded the Commission. When a Ship is so decreed, upon Security given, it is the Custom of the Admiralty to suffer her to be hir'd out.

It being observ'd upon a Libel, that there was no Mention made that the Ship was taken by Pirates *super altum mare*; and though there was contain'd therein very much to imply it, yet the Court held that to be absolutely necessary to support the Jurisdiction of the Admiralty.

Case V. Durado versus Gregory. Trin. 21
Car. 2. in Banco Regis.

THERE was a Contract at *Malaga*, concerning Lading of a Ship, and for Breach of this, which was said to be upon Sea, *viz.* That the Master would not receive 40 Butts of Wine into the Ship according to the Agreement: There was a Libel in a foreign Admiralty, and Sentence that the
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Wine should be received into the Ship; which being refus'd, another Libel was commenc'd in the Admiralty here in *England*, reciting the former Sentence, and charging the Defendant with the Breach of it; and a Prohibition was pray'd, because it appears the Contract was made upon the Land. Against which it was objected by *Finch*, Solicitor General, That where Sentence is obtain'd in a foreign Admiralty, one may libel for Execution thereof here; (because all the Courts of Admiralty in *Europe*, are govern'd by the Civil Law, and are to be Assistant one to another) though the Matter were not originally determinable in our Court of Admiralty. And for this he cited a Judgment *5 Jac.* and to this the Court agreed. But here was no compleat Sentence in the foreign Admiralty; only an Award that the Wine should be receiv'd, and now for Breach thereof he sues here, which is in Nature of an original Suit, and to have Execution of the Sentence; and this ought not to be, even though the Breach was at Sea, it being of a Contract made upon the Land; wherefore they granted a Prohibition. 1 *Roll. Abr.* 929.

Case VI. Sparks, &c. versus Martin.

A Prohibition was moved for by *Jones*, to the Court of Admiralty, for that they libelled against one for rescuing of a Ship, and taking away the Sails of it, from one that was executing the Process of the Court against the Ship; and for that in the Presence of the Judge, and in the Face of the Court, he assaulted and beat a Person, and spoke many opprobrious Words against him. Now seeing that these Matters were determinable at Common Law, the Ship being *infra Corpus Comitatus*, and the Admiralty could not adjudge Damages to the Party, or fine or imprison the Offender,

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der, he pray'd a Prohibition. But the Court deny'd it; for they may punish one that resists the Process of their Court, and fine and imprison for a Contempt acted in the Face of the Court, though they are no Court of Record; but if they should proceed to give the Party Damages, a Prohibition might be had as to that. But the Party afterwards put into his Suggestion, that the original Cause upon which the Process was grounded, was a Matter whereof the Court of Admiralty had no Cognisance; and therefore a Prohibition was granted.

Case VII. Anno 31 Car. 2.

UPON a Suggestion that a Suit in the Admiralty was there upon a Contract made at Land, a Prohibition was pray'd: The Case was thus: A Bargain was made upon the Land with several Seamen, to bring up a Ship from a Port in *England* to *London*, for a certain Sum to them to be paid; and for the Prohibition it was alledg'd, that this being upon the Land, and a Contract with divers jointly for a Sum in gross, it could not be within the ordinary Rule of Mariners Wages, which are permitted to be sued for in the Court of Admiralty, in Favour of the Mariners, because they may all join in that Court, and not be put to the Inconvenience of suing severally, as they must at Law; but as this Contract is, they ought to sue jointly at Common Law. But the Prohibition was denied; for this must be taken as Mariners Wages.

And therefore though the Contract was upon the Land, yet the Court of Admiralty hath Jurisdiction. If a Party comes after Sentence, it is at the Discretion of the Court, whether they will grant a Prohibition.

Case

Case VIII. *Jefferies versus Legendre.*

AN Action on the Case was brought by the Plaintiff upon a Policy of Assurance of Goods, from *London* to *Naples*, upon the Ship called the *Olive Branch*; the Adventure was to begin at the Time of lading the Ship at *London*, and seven Guineas was the *Premium* for every 100*l.* insur'd, Dangers of the Sea only excepted. At the Bottom of which Policy these Words were subscrib'd, *Warranted to depart with Convoy*; upon which the Question did now arise. The Plaintiff in his Declaration did own that the Ship departed with Convoy; that she was taken by the *French*; that the Defendant had Notice of it, but did not pay the Money, &c. Upon *Non assumpsit* pleaded, the Jury brought in a Special Verdict to this Effect; That they found the Policy of Assurance, and that the Defendant subscrib'd, that the Ship departed out of the River *Thames*, under the Convoy of a Man of War; that about the Isle of *Wight* she was separated from the Convoy by bad Weather, and put in at *Torbay*, and was there detain'd by contrary Winds; that the Master of the Ship expecting to meet the Convoy departed out of the Harbour, but could not meet her, being hinder'd by Strefs of Weather; that the Ship was taken by the *French*, and so lost. The Question hereupon was, what the true Meaning of these Words are, *viz. Warranted to depart with Convoy.* The Counsel for the Plaintiff would have it, that no more was intended than a Departure with Convoy at the first setting out of the River, which being provided by the Insurers, they had fulfill'd their Warranty; that what was afterwards done by the Master of the Ship, in coming out of the Harbour, ought

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not to prejudice the Plaintiff; for the Master is in Nature of a common Carrier to convey Goods from one Port to another: But as it is found by the Jury he did not misbehave himself, for he came forth to meet his Convoy, and did endeavour it, but was hinder'd by the Weather. These Words imply a mutual Covenant, and the rather because they come in the Conclusion of the Policy; but admitting it to be a Condition precedent, the Plaintiff hath perform'd all he ought to do, it being expressly found that the Ship did depart with Convoy. Suppose the Words had been warranted to depart with Convoy, and so to continue to the End of the Voyage, (Dangers of the Sea only excepted) if the Ship should happen to be taken by the Enemy, that is a Danger at Sea; or if the Convoy leave her, being commanded another Way by the King, or if she be assaulted and will not fight, the Insurers shall lose nothing in these Cases. The Meaning of these Words are, that all necessary Care shall be taken to preserve the Ship, which was done by the Plaintiff, and therefore he ought to recover. On the other Side it was argued, that by these Words the Ship ought to go all the Way with Convoy, and not only out of the Mouth of the River, where there is no Danger; for that could never be the Meaning of the Parties, and that she should be left at Sea where there is Danger. Now a Policy of Assurance is but a parol Contract, and must be construed according to the Intention of the Parties, and not according to the strict Sense of the Word. As if a Man covenants to make such a Voyage, and to bear all Losses (excepting Perils at Sea), and the Ship is taken in the Voyage *per quosdam ignotos & bellicosos*, such Taking by Pirates is held to be Perils at Sea. When a Person is obliged to secure a Thing under such Terms and Circumstances, the Manner of the Promise must be observ'd and pursued; as if I promise to pay 50*l.* to another, sending his
Servant

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Servant to me on such a Day ; if he doth not send his Servant, the Obligation ceases on my Part. So if a Promise be made to deliver Goods, and for that Purpose they are put into a Port, which is afterwards drown'd ; notwithstanding the Party used his Endeavours, that shall not discharge him ; because he having undertaken to do the Thing on his Part, he ought to perform it. It is found by the Jury, that the Master of the Ship departed out of Harbour expecting to meet the Convoy, which must be to sail with her, and be protected by her the rest of the Voyage, or otherwise a Convoy will signify little or nothing. Here was a Severance indeed by bad Weather, but the Ship might have come up to Convoy, or that to the Ship ; but she did not stir till the Ship was taken : Therefore the Insurers being to provide a Convoy here, is a Breach of the Agreement on their Side, which will hinder them from bringing this Action ; especially since it is an intire Agreement, and no precedent Condition. *Curia* : If the Insurers have acted contrary to the Agreement, the Policy fails as much as if there had been a *Deviation*. The Word *depart* is only *terminus à quo* ; if the Ship had departed from *London*, and came back again by Fraud, that had been no Departure within the Intention of this Agreement : But upon this Departure, (as it is found) the Voyage was begun with Convoy : They were afterwards separated by Strefs of Weather, both endeavour'd to save themselves, and afterwards to find out each other ; and there was no Fraud in the Master : Judgment was given for the Plaintiff. It might have been otherwise, if the Convoy had run from the Ship, and by that Means she had been taken.

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*Case IX. Of Lethulier. Mich. 4 W. & M.
B. R.*

ACTION on a Policy of Insurance by the Defendant at *London*, insuring a Ship from thence to the *East-Indies*, warranted to depart with Convoy; and shews that the Ship went from *London* to the Downs, and from thence with Convoy, and was lost. After a frivolous Plea and Demurrer, the Case stood upon the Declaration, to which it was objected, that here was a Departure without Convoy. *Et per Cur³*: The Clause warranted to depart with Convoy, must be construed according to the Usage among Merchants, *viz.* From such Place where Convoys are to be had, as the Downs, &c. But *Holt, Ch. Just. contra*: We take Notice of the Laws of Merchants, that are general; not of those that are particular Usages. It is no Part of the Law of Merchants to take Convoy in the Downs. *Salk. Rep. 443.*

Case X. Bond versus Gonfales.

CASE, &c. upon a Policy which was to insure the *William Galley* in a Voyage from *Bremen* to the Port of *London*, warranted to depart with Convoy. The Case was, the Galley set sail from *Bremen*, under Convoy of a *Dutch* Man of War, to the *Elb*, where they were join'd with two other *Dutch* Men of War, and several *Dutch* and *English* Ships, whence they sailed to the *Texel*, where they found a Squadron of *English* Men of War. After a Stay of nine Weeks, they set out from the *Texel*, and the Galley was separated in a Storm, and taken by a *French* Privateer, then taken again by a *Dutch* Privateer,

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vateer, and 80*l.* paid for Salvage. And it was Ruled by *Holt*, Ch. Just. that the Voyage ought to be according to Usage; and that the going to the *Elb*, though in Fact out of the Way, was no Deviation; for till after the Year 1703, there was no Convoy for Ships directly from *Bremen* to *London*: And the Plaintiff had a Verdict.

Case XI. *Bates versus Grabham.*

IN Action on the *Case*, on a Policy of Insurance, upon a *Non assumpsit* pleaded, the *Case* was thus: One *Crisp*, being in the *West-Indies*, sent a Letter to *Bates* in *London*, to insure Goods upon the *Mary Galley*, Captain *Hill* Commander: *Bates* carry'd the Letter to one *Stubs*, who writ Policies, and he by Mistake, made the Insurance on the *Mary*, Captain *Hastlewood* Commander, and the Policy thus made, was subscrib'd by the Defendant. Afterwards the *Mary Galley* was lost; then *Stubs* applied to the Insurers to consent that the Policy might be alter'd, to which they agreed, and the Mistake was amended; and though it was objected at the Trial, that the *Mary* was a stouter Ship, and that the Insurers ought to have a greater *Premium* for the Alteration; yet it was adjudged that this Action would lie, the Mistake being rectified by Consent, after the Policy under-written; and that *Stubs* was a good Witness. And Ch. Just. *Holt* cited a *Case* which happen'd when *Pemberton* was Ch. Just. An Insurance was made from *Archangel*, to the *Downs*, and from the *Downs* to *Leghorn*; but there was a parol Agreement at the same Time, that the Policy should not commence till the Ship came to such a Place; and it was held that the parol Agreement should avoid the Writing.

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Case XII. Green versus Young.

IT was adjudg'd in this Case, that if after a Policy of Insurance, a Damage happens, and afterwards in the same Voyage, there is a Deviation, the Assured shall recover for what happen'd before the Deviation, and the Policy be discharg'd from the Time of the Deviation only. *Salk. Rep. 444.*

Case XIII. Boson versus Sandford.

IN Case against *A.* and *B.* Part-Owners of a Ship, for that the Plaintiff put Goods on Board, and the Defendants undertook to carry them safely for Hire; but yet were so negligent, that the Goods were spoil'd. Upon Not guilty pleaded, it appear'd in Evidence, that *C.* and *D.* were also Part-Owners of the Ship, and that the Ship was under Care of a Master, to whom the Goods were deliver'd. And this being found severally, it was argued for the Plaintiff, that the Action is grounded on the Wrong, and may be against all, or against any of the Proprietors. There was also a Doubt started, Whether the Owners were liable, when in Truth, they did not undertake, but in Fact the Master *super se suscepit?* *Eyre* Justice held, there was no Difference between a Land-Carrier and a Water-Carrier; and that the Master of a Ship was no more than a Servant to the Owners in the Eye of the Law. *Et per Holt, Ch. Just.* The Owners are liable in Respect of the Freight, and as employing the Master; for whoever employs another, is answerable for him, and undertakes for his Care, to all that make use of him. The Court held, That all the Owners were liable, for they are charg'd in Point of Contract as Employers, and are all equally intitled to the Freight. *Either Master*

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ster or Owners may bring an Action for the Freight, but if the Owners bring an Action, they must all join ; therefore they must all be join'd. As the Freight belongs to all, so all are equally undertaking. And a Breach of Trust in one is a Breach of Trust in all, as where two make one Officer, the Act of one is the Act of the other. Lastly the Court held, this was not an Action *ex delicto*, but *ex quasi contractu*, and it was not the Contract of one but of all: That there was no other Tort but a Breach of Trust. Therefore the Court gave Judgment for the Defendant, because all the Owners were not join'd.

Case XIV. *Trin. 3 Ann. B. R.*

IN Contesting who was a Merchant, in the Case of the Mayor and Commonalty of *London* against *Wilks* ; it was held that a Merchant includes all Sorts of Traders as well as Merchant-Adventurers : And a Merchant-Taylor is a common Term. *Per Holt, Ch. Just.*

Case XV. *Martin versus Crump.*

IN this Case, it was adjudg'd, that where there are two joint Merchants, and one dies, the Remedy survives, but not the Interest: So that an Executor of a Joint-Merchant may not join with the Survivor in an Action ; but the Survivor having recover'd the Duty, must be accountable to the Executor. *Salk. Rep. 444.*

C H A P. XII.

A Summary of the Sea Laws of Oleron, made by King Richard I. with some Notice of the Sea Laws of Rhodes, Wisbuy, &c. relating to Merchants, Masters of Ships, and Mariners.

KING Richard the First of England, in his Return from the *Holy Land*, arriving at the Isle of Oleron, situate in the Bay of *Acquittain*, of which that Prince was then in Possession, did there make and publish certain Laws and Statutes for the Regulation of Maritime Affairs, which were for many Ages famous under the Title of the *Laws of Oleron*: And these Laws, tho' they were publish'd there, did not only take Place in that Island, and the adjacent Countries, but likewise in all the Seas and Maritime Places in this Part of the World. For it hath been observ'd, that as soon as they came to be known, they were approv'd by all honest Men, who us'd the Sea: And according to the Nature of ancient Customs, they insinuated themselves by Degrees, and got Footing in Courts of Law and Justice. They agree with, in many Things, the ancient Laws of *Rhodes*, a City in a renown'd Island of that Name in the Mediterranean Sea: And upon the Foundation of the Laws of Oleron, are built the Ordinances of the famous City of *Wisbuy* in the Isle of *Gotbland*; which were in Force in all Ports, Harbours, and Seas of *Europe*, as far as the Streights of *Gibraltar*.

Tho' in some Parts of this Treatise, there are some Cases from, and References to, the Laws of Oleron, especially under the Heads of Masters and Owners of Ships, &c. Yet it hath been thought necessary

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cessary to insert the following Summary of them; that the Reader may have a compleat View of these great and excellent Laws all together, for his further Use and Satisfaction.

They are comprehended in several Articles as follow, *viz.*

Article I.

When several Joint Owners make a Man Master of a Ship or Vessel, and the Ship or Vessel departing from her own Port, arrives at any other Place, and is there freighted for some other foreign Country; the Master may not sell or dispose of that Ship, without a special Procuration from the Owners: But in Case he wants Money for the Victualling, or other necessary Provisions of the said Vessel, he may for that End, with the Advice of the Mariners, pawn or pledge Part of the Tackle or Furniture of the Ship.

Article II.

If a Ship or other Vessel be in Port, waiting for Weather, and a Wind to depart; the Master ought when that comes, before his Departure, to consult his Company, what they think of the Wind; and if any of them see that it is not settled, and advise him to stay till it is, and others on the contrary would have him make Use of it as fair, he ought to follow the Advice of the major Part: If he does otherwise, and the Vessel happens to miscarry, he shall make good the same.

Article

Article III.

If any Vessel, through Misfortune, happen to be cast away, the Mariners shall be oblig'd to use their best Endeavours for saving of the Ship and Lading: And if they preserve Part thereof, the Master shall allow them a reasonable Consideration, to carry them home to their own Country: And in Case they save enough to enable the Master to do this, he may pledge such Part thereof as may be sufficient for that Occasion, to some honest Persons: But if they have not endeavour'd to save the Ship as aforesaid; then the Master shall not be bound to provide for them in any Thing, but ought to keep them in safe Custody, until he knows the Pleasure of the Owners: And if he doth otherwise, he shall be oblig'd to make Satisfaction.

Article IV.

If a Vessel, departing from any Place with her Lading, happens in the Course of her Voyage to be unfit to proceed therein, and the Mariners save as much of the Lading as possibly they can: If the Merchants require their Goods of the Master, he may deliver them if he pleases, they paying the Freight in Proportion to the Part of the Voyage perform'd, and the Costs of Salvage: But if the Master can readily repair his Vessel, he may do it: Or if he think fit, may freight another Ship to perform his Voyage. And if he has promis'd to the People who help'd him to save the Ship, the Third or Half Part of the Goods sav'd, for the Danger they ran; the Judicature of that Country ought to consider the Pains they have been at only, and reward them accordingly; without any Regard to the

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the Promises made them by the Parties concern'd in the Time of Hurry and their Distress.

Article V.

If a Vessel departing from one Port, laden or empty, arrives at another, the Mariners shall not leave the Ship without the Master's Consent: If they do, and by that Means the Ship happens to be lost or damnified, they shall be answerable for the Damage; but if the Vessel be moor'd, and lying at Anchor, with a sufficient Number of Men aboard to keep the Decks, and Lading, they may go without the Master's Consent, so as they return back in good Time; otherwise they shall be liable to make Satisfaction, if they are able.

Article VI.

If any of the Mariners hir'd by the Master of any Vessel, go out of the Ship without his Leave, and get themselves drunk, and thereby there happens Debates, or Fighting and Quarrelling, and some of them are wounded: In this Case, the Master shall not be oblig'd to get them cur'd, or in any Thing to provide for them, but may turn them and their Accomplices out of the Ship; and if they make Words of it, they are bound to pay the Master besides: But, if by the Master's Orders and Commands, any of the Ship's Company be in the Service of the Ship, and thereby happen to be wounded or hurt, in that Case they shall be cur'd and provided for at the Costs and Charges of the said Ship.

Article

Article VII.

If it happens that Sickneſs ſeizes on any one of the Mariners, while in the Service of the Ship, the Maſter ought to ſet him on Shoar, to provide Lodging for him, and to ſpare him one of the Ship-Boys, or hire a Woman to attend him, and alſo to afford him ſuch Diet as is uſual in the Ship, but nothing more, unleſs the Maſter pleaſe to allow it him; and if he will have better Diet, the Maſter ſhall not be bound to provide it, unleſs it be at the Mariner's own Coſt; and if the Veſſel be ready for her Departure, ſhe ought not to ſtay for the ſaid ſick Mariner: But if he recovers, he ought to have his full Wages, deducting only ſuch Charges as the Maſter hath been at for him; and if he dies, his Wife or next of Kin ſhall have it.

Article VIII.

If a Veſſel laden ſail from any Port or Place, and it happens that a Storm overtakes her at Sea, ſo violent that ſhe cannot eſcape without caſting ſome of the Cargo over-board, for Lightning the Veſſel, and Preſerving the reſt of the Lading, as well as the Veſſel it ſelf; then the Maſter ought to conſult the Merchants on Board; or if there be no Merchants, or if thoſe that are there, approve of it by their Silence, then the Maſter may do as he thinks fit: And if the Merchants are not pleas'd with his Throwing over any Part of the Merchandize, and forbid him; yet the Maſter ought not to forbear caſting out ſo many of the Goods, as he ſhall ſee to be for the common Good and Safety; he and the third Part of his Mariners making Oath, when they arrive at their Port of Diſcharge, that
he

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he did it only for the Preservation of the Ship, and the Rest of the Lading. And the Wines, or other Goods cast over Board, ought to be valu'd according to the just Value of the other Goods that arrive in Safety: And when these shall be sold, the Price or Value thereof ought to be divided among the Merchants: And the Master may compute the Damage his Vessel hath sustain'd; or reckon the Freight of the Goods thrown over Board at his own Choice: The Mariners also ought to have one Tun free, and another divided by Cast of the Dice, according as it shall happen. But if the Master doth not make it appear, that he and his Men did the Part of able Seamen, then neither he nor they shall have any Thing: And the Merchants, in this Case, may lawfully put the Master to his Oath.

Article IX.

If it happen that by Reason of much foul Weather, the Master is like to be constrain'd to cut his Masts, he ought first to call the Merchants, if there be any aboard the Ship, and such as have Goods and Merchandizes in the Vessel, and to consult and advise with them: And so they frequently cut their Cables, leaving them with their Anchors behind them, to save the Ship and her Lading: All which are computed *Livre* by *Livre*, as the Goods are, that are cast over Board. And when the Vessel arrives in Safety at her Port of Discharge, the Merchants ought to pay the Master their Shares or Proportions without Delay; or sell or pawn the Goods, and employ the Money to satisfy the same, before the said Goods are unladen out of the said Ship: But if he lets them go, and there happens Controversies and Debates touching the Premises, the Master ought not to suffer; but is to have his compleat

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compleat Freight, as well for what Goods were thrown over Board, as for what he brought home.

Article X.

The Master of a Ship, when he lets her out to Freight to the Merchants, ought to shew them his Cordage, Ropes, &c. with which Goods are to be hoisted aboard or ashore: And if they find these need Mending, the Master ought to mend them. For if a Pipe, Hogshead, or other Vessel, should happen by Default of such Cordage, to be spoil'd or lost, the Master and Mariners ought to make Satisfaction for the same to the Merchants. So also if the Ropes break, the Master not shewing them before-hand to the Merchants, he is obliged to make good the Damage: But if the Merchants say the Cordage, or Ropes are good and sufficient, and then it happens that they break, in that Case, they ought to divide the Damage between them, that is to say, the Merchant to whom such Goods belong, and the said Master with his Mariners.

Article XI.

If a Vessel laden with Wine or other Goods, hoists Sail to carry them to some other Port, and the Master doth not do his Duty as he ought, nor the Mariners handle their Sails, and it happens that bad Weather over-takes them at Sea, so that the Main-yard strikes out the Head of one of the Pipes or Hogsheads of Wine; this Vessel being safely arriv'd at her Port of Discharge, if the Merchant alledges, That by Reason of the Main-yard, his Wine was lost, and the Master denies it; in this Case, the Master and his Mariners ought to
make

make Oath that the Wine perish'd not by the Main-Yard, nor through any Default of theirs, as the Merchants charge them; whereupon they ought to be acquitted thereof; but if they refuse to make Oath to the Effect aforesaid, they shall be obliged to make Satisfaction for the same; because they ought to have order'd their Sails aright before their Departing from the Port, where they took in their Lading.

Article XII.

A Master having hired his Mariners, ought to keep the Peace betwixt them, and to be as their Judge at Sea; so that if there be any of them that gives another the Lie, whilst they have Wine and Bread on the Table, he ought to pay four *Deniers*; and if the Master himself give any the Lie, he ought to pay eight *Deniers*; and if any of the Mariners impudently contradict the Master, he also ought to pay eight *Deniers*; and if the Master strike any of the Mariners, he ought to bear with the first Stroke; but if the Master strikes him more than one Blow, the Mariner may defend himself: But if the Mariner doth first assault the Master, he ought to pay five *Sols*, or lose his Hand.

Article XIII.

If a Difference happens between the Master of a Ship and one of his Mariners, the Master ought to deny him his Mefs thrice, before he turn him out of the Ship, or discharge him. But if the Mariner offer, in the Presence of the rest of the Mariners, to make the Master Satisfaction, and the Master is resolv'd to accept of no Satisfaction from him,

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him, but to put him out of the Ship, in such Case the said Mariner may follow the said Vessel to her Port of Discharge, and ought to have as good Wages as if he had come in the Ship, or as if he had made Satisfaction for his Fault; and if the said Master take not another Mariner into the Ship in his stead, as able as the other, and the Ship or Lading happens thereby to be damnified, the Master shall be obliged to make good the same.

Article XIV.

If a Vessel lying at Anchor, be struck or grappled with by another Vessel under sail, that is not well steer'd, whereby the Vessel at Anchor is damaged, as also Wines or other Merchandise in each of the said Ships; in this Case the whole Damage shall be in common, and be equally divided Half by Half. But the Master and Mariners of the Vessel, that struck or grappled with the other, shall be bound to swear that they did it not willingly or wilfully. And the Reason of this Judgment is, that an old decay'd Vessel might not be purposely put in the Way of a better; which will be prevented, when they know that the Damage must be divided.

Article XV.

If two or more Vessels lie in a Harbour where there is but little Water, so that the Anchor of one of the Vessels lieth dry; the Master of the other Vessel ought, in that Case, to say unto him whose Anchor lies dry, *Master, take up your Anchor, for it is too nigh us, and may do us a Prejudice.* If neither the said Master nor his Mariners will take up the said Anchor accordingly, then may the other

Master and his Mariners take up the Anchor, and let it down at a farther Distance from them ; and if the others oppose or withstand the Taking up of their Anchor, and there afterwards happens Damage thereby, they shall be bound to give full Satisfaction for the same. But if they put out a Buoy or Anchor-Mark, and the Anchor does any Damage, the Master and Mariners to whom it belongs, are not bound to make it good. If they do not put out such Buoy, they are bound ; for all Masters and Mariners ought to fasten such Buoys to Anchor-Marks, and Cables to their Anchors, as may be plainly seen at full Sea.

Article XVI.

When a Ship arrives in Port with her Lading, the Master is bound to ask his Company when she is ready to load again, whether they will freight their own Share themselves, or be allow'd for it in Proportion with the Ship's general Freight ; and the Mariners are bound to answer one or the other. If they take as the Freight of the Ship shall happen, they shall have proportionably as the Ship hath ; and if they will Freight by themselves, they ought to Freight so as the Ship be not hindered thereby. And if it so happen, that they cannot let out their Freight, or get Goods themselves, when the Master hath tender'd them their Share or Stowage, the Master is not blameable ; and if they will there lade a Tun of Water instead of so much Wine, they may do it. And in Case there should happen at Sea an Ejection or Casting of Goods over-board, the Case shall be the same for a Tun of Water as for a Tun of Wine, or other Goods, *Livre by Livre*. If they let out their Proportion

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of Freight to Merchants, what Freedom and Im-
munity the said Mariners have, the said Merchants
shall have also.

Article XVII.

The Mariners of *Britany* ought to have but one Meal a Day, because they have Beverage going and coming. But those of *Normandy* are to have two Meals a Day, because they have only Water at the Ship's Allowance; and when the Ship arrives in a Wine Country, there the Master shall procure them Wine to drink.

Article XVIII.

When a Vessel is unladen, and the Mariners demand their Wages, some of them having neither Bed, Chest, nor Trunk aboard, the Master may lawfully retain Part of their Wages till they have brought back the Ship to the Port from whence she came, unless they give good Security to serve out the whole Voyage.

Article XIX.

If the Master hire the Mariners in the Town to which the Vessel belongs, either for so much a Day, Week, or Month, or such a Share of the Freight, and it happens that the Ship cannot get Freight in those Parts where she is arriv'd, but must sail further to procure it; in such Case, those that were hired for a Share of the Freight, ought to follow the Master; and such as are at Wages to have their
Wages

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Wages advanc'd *Course* by *Course*, that is, in Proportion to the Length of the Voyage, in what it was longer than they agreed for, because he hir'd them to one certain Place. And if they go not so far as that Place for which the Contract was made, yet they ought to have the whole promis'd Hire, as if they had gone thither; but they ought likewise to bring back the Vessel to the Place from whence she at first departed.

Article XX.

When a Vessel arrives in any Port, two of the Mariners at a Time may go on Shore, and take with them one Meal of such Victuals as are in the Ship therein cut and provided; as also Bread proportionably, as much as they eat at once, but no Drink: And they ought speedily, and in Season, to return to their Vessel, that thereby the Master may not lose his Tide; for if so, and Damage happen thereby, they are bound to make Satisfaction; or if any of their Company be hurt for Want of their Help, they are to be at the Charge of his Recovery, as one of their Fellow-Mariners, or the Master with those of his Table shall adjudge.

Article XXI.

If a Master freight his Ship to a Merchant, and set him a certain Time to lade his Vessel, that she may be ready to depart at the Time appointed, and he lade it not within the Time, but keep the Master and Mariners by the Space of eight Days, or more, beyond the Time agreed on, whereby the Master loses the Opportunity of a fair Wind to depart; the Merchant in this Case shall be

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obliged to make the Master Satisfaction for such Delay, the fourth Part whereof is to go among the Mariners, and the other three fourths to the Master, because he finds them their Provisions.

Article XXII.

When a Merchant freights a Vessel at his own Charge, and sets her to Sea, and the Vessel enters into an Harbour, where she is Wind-bound, so that she stays till her Money be all spent, the Master ought speedily to write Home to his own Country for Money, but ought not to lose his Voyage on that Account; for if so, he shall be obliged to make good to the Merchant all Damages that shall ensue. But the Master may take Part of the Wines or other Merchant Goods, and dispose thereof for his present Necessities; and when the Vessel shall be arriv'd at her Port of Discharge, the said Wines, that the Master hath so dispos'd of, ought to be valu'd and apprais'd at the same Rate as the other Wines shall be commonly sold for, and accordingly be accounted for to the Merchant. And the Master ought to have the Freight of such Wines as he hath so taken and dispos'd of for the Use and Reason aforesaid.

Article XXIII.

If a Pilot undertakes the Conduct of a Vessel, to bring her into any Port, and fail of his Duty therein, so that the Vessel miscarries by Reason of his Ignorance in what he undertook, and the Merchants sustain Damage thereby, he shall be oblig'd to make full Satisfaction for the same, if he be of Ability; and if not, lose his Head.

Article

Article XXIV.

And if the Master, or any one of his Mariners, or any one of the Merchants, cut off his Head, they shall not be bound to answer for it; but before they do it, they must be sure he had not wherewith to make Satisfaction.

Article XXV.

If a Ship or Vessel arriving at any Place, and making in towards a Port or Harbour, set out her Flag, or give any other Sign to have a Pilot come aboard, or a Boat to tow her into the Harbour, the Wind or Tide being contrary, and Contract be made for Piloting the Vessel into the Harbour accordingly; but because of an unreasonable and accursed Custom in some Places, that the third or fourth Part of the Ships that are lost, shall accrue to the Lord of the Place where such sad Casualties happen, as also the like Proportion to the Salvors, and only the Remainder to the Master, Merchant, and Mariners; the Persons contracting for the Pilotage of the said Vessel, to ingratiate themselves with their Lords, and to gain to themselves a Part of the Ship and Lading, do like faithless and treacherous Villains, sometimes even willingly and out of Design to ruin Ship and Goods, guide and bring her upon the Rocks; and then feigning to aid and assist the distress'd Mariners, are the first in dismembring and pulling the Ship to Pieces, purloining and carrying away the Lading thereof, contrary to all Reason and good Conscience; and afterwards that they may be the more Welcome to their Lords, do with all Speed post to his House with this sad Narrative of this unhappy Disaster,

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where-

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whereupon the said Lord, with his Retinue, appearing at the Place, take their Share, the Salvors theirs, and what remains the Merchant and Mariners may have. Now seeing all this is contrary to the Law of God, our Edict is, notwithstanding any Law or Custom to the contrary, and it is hereby ordain'd, that the said Lord of the Place and Salvors, and all others that take away any of the said Goods, shall be accursed and excommunicated, and punished as Thieves and Robbers. But all false and treacherous Pilots shall be condemn'd to suffer a most rigorous and unmerciful Death; and high Gibbets shall be erected for them in the same Place, or as near as may be, where they so guided and brought any Ship or Vessel to Ruin as aforesaid, and thereon these accursed Pilots are with much Shame and Ignomy to end their Days; which Gibbets are to abide and remain to succeeding Ages on that Place, as a visible Caution to other Ships that shall afterwards sail thereby.

Article XXVI.

And if the Lord of any Place be so Barbarous, as not only to permit such inhumane People, but also to maintain and assist them in such Villanies, that he may have a Share in such Wrecks, the said Lord shall be apprehended, and all his Goods confiscate and Sold, in order to make Restitution to such as of Right it appertaineth; and himself shall be fastened to a Post or Stake, in the Midst of his own Mansion-house, which being fir'd at the four Corners, all shall be burnt together, the Walls thereof shall be demolish'd, the Stones pull'd down, and the Place converted into a Market-Place, for the Sale only of Hogs and Swine to all Posterity.

Article

Article XXVII.

A Vessel being arriv'd at her Port of Discharge, and halled up there into dry Ground, so as the Mariners deeming her to be in good Safety, do take down her Sails, and so fit the Vessel *aloof* and *ast*, the Master ought then to consider an Increase of the Mariners Wages *Kenning* by *Kenning*; and if, in hoisting up of Wines, it happens that they leave open any of the Pipes, or that they fasten not the Ropes well at the End of the Vessels, by Reason whereof they slip and fall, and so are lost, and falling on others, both are lost; in these Cases, the Master and Mariners shall be bound to make them good to the Merchants, and the Merchants must pay the Freight of the damnified or lost Wines, because they are to receive for them from the Master and Mariners, according to the Value that the rest of the Wines are sold for; and the Owners of the Ship ought not to suffer thereby, because the Damage happen'd by the Default of the Master and Mariners, in not making fast the said Vessels or Pipes of Wine.

Article XXVIII.

If two Vessels on a fishing Design in Partnership, do set or lay their Nets or Lines at any Place, the one of the Vessels ought to employ as many fishing Engines as the other, and so shall go in equal Shares, as to the Gain, according to the Agreement made between them: And if it happens that one of the said Vessels, with her fishing Engines and Crew perish, and the other escaping, arrives in Safety; if the surviving Friends of those that perish'd, require of the other to have their

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Part of the Gain, as also of their Fish, Fishing Engines, and Boat, they are to have, upon the Oaths of them that escape, their Part of the Fish and Fishing Engines; but they shall not have any Part or Share in the Vessel itself.

Article XXIX.

If any Ship or Vessel sailing to and fro, and coasting the Seas, as well in the Way of Merchandising, as on the fishing Account, happen by Misfortune, through the Badness of the Weather to strike against any Rocks, whereby she becomes so bruised and broken, that there she perisheth upon that Coast or Country, and the Master, Mariners, Merchants, or any of those escape and come safe to Land; in this Case, the Lords of that Place or Country, where such Misfortune shall happen, ought not to let, hinder, or oppose such as have so escaped, or such to whom the said Ship or Vessel and her Lading belong, in using their utmost Endeavours for the Preservation of as much thereof as may possibly be saved. But on the contrary, the Lord of that Place or Country, by his own Interest, and those under his Power, ought to be aiding and assisting to the distress'd Mariners or Merchants, in saving their shipwreck'd Goods, and that without any the least Imbezilment, or Taking any Part thereof from the right Owners; though there may be a Consideration for Salvage to such as take Pains therein, according to right Reason, good Conscience, and as Justice shall appoint. And in case any shall act contrary hereunto, or take any Part of the said Goods from the said distress'd, ruin'd, and undone shipwreck'd Persons, against their Wills, they shall be declar'd to be excommunicated, and receive the Punishment of Thieves, unless

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unless speedy Restitution be made by them. Nor is there any Custom or Statute that can protect them against the Penalties in the 26th *Article* of the Laws.

Article XXX.

If a Ship or other Vessel entering into Harbour, happens to be broken and perish, and the Master, Mariners, and Merchants which were on board her be all drowned; if the Goods thereof be driven ashore, or remain floating on the Sea, without being sought after by those to whom they belong, they being ignorant of this sad Disaster, and knowing nothing thereof; in this most lamentable Case, the Lord of that Place or Country ought to send Persons to save the said Goods, which he shall put into safe Custody, and give Notice thereof to the Relations of the deceased Persons who were drown'd, and shall satisfy for the Salvage thereof, not out of his own Purse, but of the Goods sav'd, according to the Hazards run, and the Pains therein taken, and then what remains must be secur'd and kept for one Year or more. And if in that Time they, to whom the said Goods appertain, do not appear and claim the same, the said Year being fully expir'd, the Lord may publickly Sell and Dispose thereof to such Persons as will give most for the same; and the Money arising from such Sale he shall give among the Poor, and for Portions to poor Maids, and other charitable Uses. But if he assumes the said Goods, either in the whole or in part, unto himself, he shall incur the Curse of the Holy Church, with the aforesaid Pains and Penalties, without ever obtaining Remission, unless he make Satisfaction.

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Article XXXI.

If a Ship or Vessel happens to be lost by striking on the Shore, and the Mariners, thinking to save their Lives, reach the Shore in Hopes of Help, and instead thereof it happens, as it often doth, that in many Places they meet with People so very Barbarous, Cruel, and Inhumane, that, to gain their Money, Apparel, and other Goods, they Murder and Destroy the poor distress'd Seamen seeking their Help; in this Case, the Lord of that Country ought to execute severe Justice on such Wretches, and to plunge them in the Sea till they be half Dead, and then to have them drawn forth out of the Sea, and ston'd to Death.

Article XXXII.

If by Reason of tempestuous Weather, it be thought expedient, for the lightning of any Ship at Sea, or riding at Anchor in any Road, to cast Part of the Lading over-board, and it be done accordingly, for the common Safety, though the said Goods so ejected do become his that can first possess himself thereof and carry them away; nevertheless it is further to be understood, that this holds true only in such Cases, as when the Master, Merchant, and Mariners, have cast out the said Goods, so that they give over all Hope or Desire of ever recovering them again, and leave them as Things utterly lost and given over, without ever making any Enquiry or Pursuit after them. In which Case, and no other, the first Occupant becomes the lawful Proprietor thereof.

Article

Article XXXIII.

If a Ship, or other Vessel, hath cast over-board several Goods or Merchandises, which are in Chests well lock'd and made fast, or Books well clasp'd and shut close, that they may not be damnified by Salt Water: In such Cases, it is to be presum'd, that they who did cast such Goods over-board, do still retain an Intention, Hope, and Desire of recovering the same; for which Reason, those Persons as happen to find such Things, are oblig'd to make Restitution thereof to him who hath a Right to and shall make due Enquiry after them, or put them to pious Uses.

Article XXXIV.

If any Man happens to find any Thing in the Sea, or in the Sand on the Shore, in Floods or in Rivers, if it be precious Stones, Fishes, or any Treasure of the Sea, which never belong'd to any Man in Point of Property, it belongs to the first Finder.

Article XXXV.

But if any searches the Sea Coasts to fish, or find Gold or Silver, if he finds it, he ought to restore it without any Diminution.

Article

Article XXXVI.

If any Person going along the Sea Shore to fish, or otherwise happens to find Gold or Silver, he shall be bound to make Restitution thereof, deducting for his Pains therein; but if he be Poor, and knows not to whom to restore it, he may keep it himself; though he shall give Notice of the Place where he found it, to the Neighbourhood and Parts adjacent, and advise with his Superiors, who are to take into Consideration the Poverty and Indigence of the Finder.

Article XXXVII.

As to great Fishes that are taken or found dead on the Sea Shore, Regard must be had to the Custom of the Country where such great Fishes are taken or found; for by the common Custom, the Lord of that Country ought to have his Share, as the Subjects of any Country owe Obedience and Tribute to their Lord or Sovereign.

Article XXXVIII.

The Lord ought to have his Share of Oil, Fish, and none other, according to the Custom of the Country where found; and he that finds them is no farther obliged than to save them, by bringing them without the Reach of the Sea, and presently to make it known to the said Lord of the Place, that he may come and demand what is his Right.

Article

Article XXXIX.

If the Lord of the Place pleases, and it is the Custom of the Country where the Fish are found, he may cause the same to be brought by him that found it, to the publick and open Market-Place; and there the said Fish shall be apprais'd by the Lord or his Deputy, according to Custom; and the Price being set, the other Party that made not the Price, shall have his Choice either to take or leave it at that Price; and if either of them be an Occasion of Loss or Damage to the other, he shall be oblig'd to make Reparation.

Article XL.

If the Costs and Charges of carrying the said Fish to the said Market-Place, would amount to a greater Sum than the Fish it self may be worth, then the said Lord shall be bound to take his Share at the Place where such Fish was found.

Article XLI.

The Lord ought likewise to pay his Part of the aforesaid Costs and Charges, because he ought not by another Man's Damage to enrich himself.

Article XLII.

If by some Accident the said Fish happen to be stoln away, or otherwise lost from the Place where found, after or before the Lord hath visited
the

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the same; in this Case, he that first found it, shall not be any Ways obliged to make it good.

Article XLIII.

In all Things found by the Sea Side, which have formerly been in the Possession of some or other, as Wine, and other Merchandise, although they have been cast over-board, and left by the Merchants, and so ought to appertain to him that first finds the same; yet herein also the Custom of the Country is to be observed: But if there be a Presumption that these were the Goods of some Ship that perish'd, then neither the said Lord, nor Finder thereof, shall take or convert any Part of it to their own Use; but as hath been said, distribute the Money it produces to the Poor.

Article XLIV.

If any Ship or Vessel at Sea, happens to find any Oil-Fish, it shall be wholly theirs that found it, in Case no due Pursuit be made after it. And no Lord of any Place ought to demand any Part thereof, though they bring it to his Ground.

Article XLV.

If a Vessel, by Strefs of Weather, be constrain'd to cut her Cables or Ropes, and so to leave behind her both Cables and Anchors, and put to Sea at the Mercy of the Wind and Weather; in this Case, the said Cables and Anchors ought not to be lost to the said Vessel, if there were any Buoy fixed to them; and such as fish for them, if they

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are found, shall restore them; but they ought to be paid for their Pains, according to Justice. And if they know not to whom to restore them, the Lords of the Place shall have their Shares, as well as the Salvors. But for preventing Inconveniencies of this Kind, every Master of a Ship shall cause to be mark'd upon the Buoy thereof his own Name, or the Name of his Ship, &c. and then such as detain them shall be reputed Thieves and Robbers.

Article XLVI.

If any Ship, or other Vessel, by any Casualty or Misfortune, happens to be wreck'd and perish, the Pieces of the Bulk of the Vessel, as well as the Lading thereof, ought to be preserv'd and kept in Safety for them to whom it belong'd before such Disaster happen'd, notwithstanding any Custom to the contrary. And all Takers, Partakers, or Consenters of or to the said Wreck, if they be Clergymen, shall be deposed and deprived of their Benefices; and if Laymen, they shall incur the Penalties aforesaid, in the 25th, 26th, and 29th Articles.

Article XLVII.

This is to be understood only when the Ship or Vessel so wreck'd, did not exercise the Trade of Pillaging, and when the Mariners thereof were not Pirates, Sea-Rovers, or Enemies to our Holy Catholick Faith; for if they are found either the one or the other, any Man may deal with them as with Rogues, and despoil them of their Goods, without any Punishment for so doing.

C H A P. XIII.

Containing the Merchant's Dictionary, explaining all difficult Words and Terms us'd in Merchandize.

A.

A *Bashee*, a Piece of Coin *Persia*, that goes for 16 d. *Sterling*.

Agai, the Difference of the Value of current Money, and Bank Notes, in *Holland*, *Venice*, &c.

Alquier, a Measure of Corn at *Lisbon*, containing a Peck, three Quarts and a Pint.

Ana, Coin of *India*, going for 1 $\frac{1}{2}$ d. *Sterling*.

Anchor, of Brandy, &c. ten Gallons.

Angel, ten Shillings *English* Money.

Arbitration, is when two Merchants, Traders, &c. at Variance choose each a Person to make an End of and compromise the Matter; and if the Parties so chosen cannot agree it, 'tis usually re-ferr'd to a third Person, call'd an *Umpire*.

Archtelin, a Corn Measure us'd in *Holland*, of three Pecks, five Quarts, and a Pint.

Asar, Gold Coin passing for 6 s. 8 d. *Sterling*, at *Ormus*, in the *Persian* Gulph.

Asper, a Coin of three Farthings in *Turkey*.

Average, an Allowance made to a Master of a Ship, usually 1 d. or 2 d. in every Shilling Freight: And it is likewise what is allow'd upon extraordinary Occasions, where a Damage is sustain'd at Sea, which is equally divided by every Merchant upon all the Freight.

Aulnage, a Duty on Cloth exported.

Aume, forty-two Gallons of *Rhenish* Wine.

B.

Bag, an uncertain Quantity of pack'd Goods, from three to four Hundred.

Babar, an *East-Indian* Weight of 386 Pounds *Avoirdupois* at *Moca*; and at the *Molucca's*, the great *Babar* is 6250 Pounds, and the Less 625 Pounds, by which the Spices of *India* are sold.

Bale, a Pack of Merchandize of about three or four Hundred Weight.

Bamboe, an *East-India* Measure, containing five Pints.

Bancal, a Weight in *India*, 16 $\frac{2}{17}$ Drams.

Bank of England, a Place for Keeping and Circulating Money, to be return'd by Exchange, or otherwise dispos'd of to Profit: It is establish'd by Act of Parliament, with Funds for Maintaining thereof: And the Capital Stock, which is enlarg'd by divers Statutes, is exempted from Taxes, accounted a personal Estate, not subject to Forfeiture, and the Company make Dividends of the Profits half-yearly.

Bankrupt, is where a Man's Bank or Stock is broken or exhausted, when he is said to be a *Bankrupt*. The Lord Chancellor, &c. is to take Order with a *Bankrupt's* Body, Lands and Goods: And where a Person hath fail'd, a Commission may issue under the Great Seal to certain Commissioners to inquire into the Circumstances of the Person failing. The Commissioners may within six Months, convey all Lands, &c. to the Use of the Creditors, and sell what Goods the *Bankrupt* is in Possession of as Owner: And they are to assign Debts due, &c. to such as shall be chosen by a Majority of the Creditors; and to see that the Creditors be reliev'd *pro Rata*. The Commissioners have Power to break open a House, Shop, Trunk, &c. to seize the Effects of the *Bankrupt*; who is to be examined on

C c

Oath;

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Oath; and on Notice thrice at his House, &c. he is to be declar'd a *Bankrupt*, and not appearing on five Proclamations, shall be apprehended. Also if he removes or conceals any Money or Effects, to the Value of 20 *l.* it is Felony, by Statute.

No *Commission of Bankrupt* is to be issued out, unless the Debt of one Creditor petitioning amount to 100 *l.* or the Debt of two Creditors be 150 *l.* or of three Creditors 200 *l.*

Baratry, is where a Master of a Ship cheats the Owners, or imbezils the Goods.

Barter, the Changing of one Commodity for another.

Batze, a Piece of German Coin, passing for about 3 *d.* *Sterling*.

Berquet, a Weight of 173 Pounds, by which Hemp and other Goods are sold in *Russia*.

Besse, a Copper Coin of *Persia*, going for 1 *d.* $\frac{1}{4}$.

Bill of Entry, an Account of Goods enter'd at the Custom-house, inward and outward.

Bill of Exchange, a short Note or Writing for Payment of a Sum of Money, made by one Merchant to another in Consideration of the Value paid the Drawer, &c. After Acceptance, and Refusal of Payment, of *Bills of Exchange*, they are to be protested, and Notice is to be given the Drawer, whereupon he will be liable to make good the same, with Interest and Costs.

Bill of Lading, a *Memorandum* sign'd by Masters of Ships, acknowledging the Receipt of the Merchant's Goods, and obliging themselves to deliver the same at the Place consign'd, in good Condition.

Bill of Parcels, an Account of the Sorts and Prizes of Goods bought, deliver'd to the Buyer and the Seller.

Bind, ten Strikes of Eels, each Strike twenty-five.

Bit, a Piece of Coin current at *Barbadoes* for 7 *d.* $\frac{1}{4}$ *Sterling*.

Boisseau,

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Boisseau, a Measure of two Bushels and Half a Peck, at *Bourdeaux* in *France*.

Book of Rates, a small Book declaring the Value of Goods, that pay Poundage, ordain'd by Authority of Parliament.

Bottomry, a Borrowing of Money on a Ship, for which 40 or 50 *per Cent*. Interest is given at the safe Return of the Ship; but otherwise the Whole is lost.

Brait, is a Word us'd for a rough Diamond.

Break-bulk, a Taking out Part of the Ship's Lading.

Brokers, are those that make and conclude Bargains and Contracts, between Merchants and Tradesmen in Matters of Money and Merchandize. They are to be licens'd in *London* by the Lord Mayor, who is to give them an Oath and take Bond for the faithful Execution of their Offices: If any Person shall act as a *Broker*, not being thus admitted and licens'd, he shall forfeit 500*l*. And *Brokers of Tallies and Funds* are to be licens'd by the Lords of the Treasury, or acting otherwise, incur a like Forfeiture of 500*l*. Also the same Penalty is, by a late Statute, inflicted on *lawful Brokers* selling Shares of Stock not authoris'd by Act of Parliament. *Brokers* are to register all Contracts, on Pain of 50*l*. and not to deal for themselves under the Penalty of 200*l*. Their Fee is 2*s*. 6*d*. for the *Brokage* of every 100*l*. &c. And they are to carry about them a Silver Medal, having the King's Arms, and the Arms of the City, and their Names upon it, or they shall forfeit 40*s*.

Burse, an Exchange or Place of Meeting of Merchants.

Butlerage, a small Duty paid for Wine imported, by Persons not Freemen.

Butt, of Sack, is two Hogsheds; of Currans, from 15 to 22 Hundred.

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C.

Cade, the Number of 500 red Herrings.

Candil, a Weight of 540 Pounds *Averdupois*, in *East-India*.

Cane, a Measure, in *Spain* a Yard, Quarter and Half-Quarter in Length, at *Marseils* in *France*, two Yards and an Half.

Canister, a Quantity of Tea from 75 Pounds, to one Hundred Weight.

Cantar, at *Aleppo* one Hundred Pounds, *Tunis* and *Tripoly* one Hundred and fourteen Pounds, and at *Acra* in *Turkey* six Hundred and three.

Cantaro, a Measure of three Gallons, Wine-measure, at *Alicant*.

Cantone, a Measure of five Pints and an Half *English*, in the *Molucca* Islands.

Capan, a Coin of 3 *d. Sterling* in *East-India*.

Capeck, a Piece of Coin in *Muscovy* passing for about 1 *d. Sterling*.

Cargo, a Ship's Loading; also a Weight in *Spain* and *Turkey* of about 300 Pounds.

Cask, an uncertain Quantity of Goods; of Sugar, from eight to eleven Hundred Weight.

Caty, in the Island of *Summatra* is 6 *s.* 8 *d.* in Money: In *East-India*, a Weight of one Pound, five Ounces, and two Drams.

Charter-party, an Agreement between a Merchant and a Master of a Ship, relating to the Freight.

Chest, an uncertain Quantity of Merchandize; as of Sugar, from 10 to 15 Hundred; Indigo two Hundred, &c.

Chevisance, the Composition made between Debtor and Creditor.

Christiana, a Piece of *Swedish* Coin, going for 16 *d. Sterling*.

Clough,

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Clough, an Allowance of two Pounds, for the Turn of the Scale, on every three Hundred Weight, bought by Wholesale.

Coard, a Quantity of Wood set out four Feet long, four Feet broad, and eight deep.

Coban, Gold Coin passing for 30s. in *Japan*.

Coca, a Measure containing an *English* Pint in *Japan*.

Cocket, a Custom-house Warrant, given the Merchant upon Entry of his Goods, certifying that the same are customed.

Commerce, Trade of Buying and Selling of Goods.

Cono, a *Florence* Wine Measure of ten Barrels, each Barrel being about twelve Gallons.

Consign, a Word us'd among Merchants, where Goods are deliver'd over to a Factor, &c.

Contraband, Goods prohibited by Law from Importation.

Copes-mate, an ancient Term given to a Partner in Merchandize.

Copstake, German Coin of about 12 d. *Sterling*.

Correspondent, is where Commerce is carried on by Letters, &c. which gives the Party this Title.

Covado, a Measure of Cloth in *Persia*, &c. about the Length of an *English* Yard.

Counterpoise, the Weighing of one Thing against another.

Crache, a small Piece of Money going for three Farthings, at *Florence* and *Leghorn*.

Cranage, Money paid for the Use of a Crane, by which Goods are landed from a Ship, &c.

Crown, Coin going for 5 s. 6 d. at *Rome*, 5 s. 3 d. at *Florence*, and 5 s. in *England*.

Crusado, Coin passing for 6 s. 2 d. in *Germany*, and 2 s. 10 d. in *Portugal*.

Crusser, a small Piece of German Coin, valu'd at about three Farthings, *Sterling*.

Custom, a Duty or Tribute paid to the Crown for Merchandize exported and imported. Goods

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are to be enter'd at the Custom-house, and the Ship, &c. And if Goods are landed or shipp'd, without the Presence of an Officer of the *Customs*, the Merchant is liable to certain Penalties.

D.

Debenture, a Writing certifying Money to be due from the King, to any one for Custom, &c. paid, where foreign Goods imported are again exported.

Demurrage, an Allowance made by Merchants to a Master of a Ship, for staying in a Port beyond the Time agreed for his Departure.

Diary, a Day-book, or Journal kept of what is done.

Dicker, of Leather is ten Hides.

Disembark, to re-land Goods, &c. from a Ship.

Ditto, a Word us'd in Merchant's Accounts, for the Same.

Dividend, is where a proportion'd just Share of Profits in Trade, is assign'd to Merchants in Partnership, &c.

Doit, the fourth Part of a Stiver in *Holland*.

Dollar, a Piece of foreign Coin, going for about 4 s. 6 d.

Draught, the Number of Feet a Ship draws Water, when laden.

Drugs, medicinal Drugs, from foreign Parts, Grocery Ware, &c.

Ducat, in *Hungary*, *Poland*, &c. goes for about 4 s. 8 d. at *Rome*, 5 s. 6 d. *Venice*, 4 s. 4 d.

Dyna, an *East-India* Coin, valu'd at 30 s.

E.

Embargo, a Prohibition upon Shipping, not to go out of any Port, &c.

Empory, an Exchange.

Endorsement,

Merchant's Companion. 391

Endorsement, of Bills of Exchange, &c. See *Indorsement*.

Enfranchisement, the Incorporating Persons into a Body or Society; the Making Freemen of any City, &c.

Enhance, to raise the Price of any Thing.

Epha, a Measure us'd by the Jews, of four Gallons and an Half.

Escambio, a Licence (formerly requir'd by Statute) to make over a Bill of Exchange to one abroad.

Exchangers, Men who make it their Business to exchange Money.

Exchange-brokers, Persons that give Notice how the *Exchange* goes, and who find out those that will exchange.

Extortion, an unlawful Taking by any Officer of extraordinary Money, or other Reward, by Colour of his Office, for the Execution of his Duty; which is punishable by Law.

F.

Factor, a Merchant's Agent; and *Factorage* is the Wages or Allowance paid or made to such a Person by the Merchant.

Fagot, a Quantity of 120 Pounds of Steel.

Fangot, an uncertain Quantity of raw Silk, &c. from one Hundred to three Hundred Weight.

Fannam, a Piece of *Indian* Coin, going for about 6 d.

Fat, an uncertain Quantity of Goods, of Wire twenty Hundred.

Florin, Coin, in *Spain*, 4 s. 4 d. *Germany*, 3 s. 4 d. *Sicily*, 2 s. 6 d. *Holland*, 2 s. Accounts are kept in some Parts of *Germany*, in *Florins*.

Fodder, nineteen Hundred and an Half of Lead.

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Forestal, to buy Goods before they come to Market, with an Intent to occasion an Advancement of Price; which by Statute is punishable.

Frail, about 75 Pounds of Raisons.

Freight, is as well the Merchandize, which a Ship carries, as the Money paid for Carriage.

Frist, to sell Goods upon Credit.

G.

Gabel, Tribute or Custom.

Gaga, a Measure us'd for the Measuring of Rice and other Grain in *Japan*, containing one Hundred *Ganta's*, each *Ganta* being three Ale-pints.

Garble, the Dross and Dust sever'd from Spices and Drugs.

Gare, is course Wool, a Term us'd by Clothiers.

Goad, an Ell *English*.

Greven, a Coin in *Muscovy*, passing for 12 *d. Sterling*.

Gross, small Money in *Poland*, 30 whereof make their Guilder, or 2 *s. Sterling*: Also this Word signifies 12 Dozen of Corks, Pipes, &c.

Gross-weight, the whole Weight of Goods or Merchandize, Dust and Dross mix'd with them; and of the Chest or Bag; out of which Tare and Tret are allow'd.

Guild, a Fraternity or Company of People.

Guilder, the German *Guilder* is 3 *s. 8 d.* that of *Holland*, &c. 2 *s.* The golden One in some Parts of *Germany* is 4 *s. 9 d.* of *Portugal*, 5 *s.* Accounts are kept in *Holland* in *Guilders*.

H.

Hallage, is Toll paid for Goods or Merchandize vended in a Hall.

Hand, a Measure of four Inches in the Height of a Horse.

Hanega,

Merchant's Companion. 393

Hanega, a *Spanish* Measure, somewhat more than a Bushel and a Half; five of them make a Quarter, of eight Bushels.

Hanock, a Corn Measure us'd at *Malaga* in *Spain*.

Harping Irons, are Instruments us'd at Sea in Whale-Fishing, for Striking of the Whales: And *Harpiniers*, are those that strike the Fish with these Instruments.

Hin, a Measure containing about three Quarts, us'd by the Jews.

Hogshead, a Vessel which holds 63 Gallons.

I.

Farr, is from 18 to 26 Gallons, of Oil, &c.

Imposit, the Duty on Merchandize imported.

Inch of Candle, a Method of selling Merchandize to the best Bidder. When Goods are sold by Merchants by *Inch of Candle*, Notice is to be given upon the *Exchange*, &c. of the Time of Sale; and in the mean Time the Goods to be sold are to be divided into Lots, printed Papers of which, with the Conditions of Sale, are to be forthwith publish'd. The Goods being expos'd to Sale, a small Piece of *Wax Candle*, about an Inch long, is set burning, and the last Bidder when the *Candle* goes out, is intitled to the Lot or Parcel thus expos'd. If any Difference happens in Adjusting to whom a Lot belongs, where several Persons bid together, the Lot is to be put up again; and the last Bidder is bound to stand to the Bargain, and take the Lot whether good or bad.

The Goods are set up at such a Price; and none is to bid less than a certain Sum more than another has bid before.

Indorsement, a Writing on the Backside of a Note, what Part thereof is paid, and when, &c. And in another Sense, it is a Writing of a Man's Name only, on the Backside; as in Case of Bills of *Exchange*;

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change; and if the Bill passes from one Man to another, all the Indorsors are liable.

Ingot, an uncertain Quantity of Gold or Silver Bullion.

Inland Trade, a Trade wholly manag'd in one Country.

Insurance, is where a Man for a Sum of Money paid him by a Merchant, obliges himself to make good the Loss of a Ship, &c. so far as the Value of the *Premium* extends.

Interlopers, are Persons that intercept the Trade of a Company of Merchants.

Invoice, an Account of Merchandize, Custom, &c. sent from a Trader to his Correspondent.

Journal, a Book of Accounts wherein all Business is enter'd daily; or daily Observations at Sea.

Livro, Italian Money, 6 d. Sterling.

K.

Keg, a Vessel holding four or five Gallons, wherein Sturgeon, &c. is usually pack'd.

Key, a Place to land or ship off Goods: The Keys belonging to the Port of London are many, viz. *Chester's Key*, *Brewer's Key*, *Galley Key*, *Wool Dock*, *Custom-house Key*, *Bear Key*, *Porter's Key*, *Sabb's Dock*, *Wiggin's Key*, *Young's Key*, *Ralph's Key*, *Dice Key*, *Smart's Key*, *Somer's Key*, *Hammond's Key*, *Lyon Key*, *Botolph Wharf*, *Gaunt's Key*, *Cock's Key*, and *Fresh Wharf*; besides *Billingsgate*, and *Bridgehouse*, for Landing of Fish and Provisions.

Killow, a Corn Measure, near a Bushel, us'd in Turkey.

Kintal, of Fish, one Hundred Weight.

Kintledge, a Term us'd for a Ship's Ballast.

L. *Lastage*,

L.

Lastage, the Ballast of Shipping.

Last, an uncertain Quantity of Fish, Corn, Wool, &c. And is 12 Barrels of white Herrings, 20 Cades of red Herrings, 10 Quarters of Corn, 12 Sacks of Wool, 20 Dickers of Leather.

Leakage, an Allowance of 12 l. per Cent. to Merchants; and of two Barrels in twenty-two of Ale, to Brewers, &c.

Ledger, a Book of Accounts kept by Merchants, wherein every Dealer's Account, &c. is plac'd by it self, from the Journal-Book.

Letter of Advice, a Letter of a Merchant or Factor, giving Notice of Bills drawn on a Man, or other Business.

Letter of Credit, is where a Correspondent writes a Letter to another, requesting him to credit the Bearer with a certain Sum of Money.

Letter of Licence, an Instrument to a Man that hath fail'd in his Trade, granted by his Creditors, allowing him longer Time for the Payment of his Debts, and protecting him from Arrests and other Molestation in going about his Business.

Lispound, a Weight us'd at *Hamburg*, of fifteen Pounds.

Livre, in *France* is 1 s. 6 d. *Spain* 5 s. *Florence* and *Leghorn* 9 d. and *Genoa* 16 d. *Sterling*. Accounts are kept in *France* and *Spain*, &c. in *Livres*.

Loobard, a Bank for Usury.

Loop, a Corn Measure of two Bushels at *Riga*.

Loot, a Weight of about Half an Ounce, in *Germany* and *France*.

Lyon's Dollar, Coin of 5 s. *Sterling*, at *Aleppo* in *Turkey*; where Accounts are kept in *Dollars* and *Aspers*.

M. Maggio,

M.

Maggio, a Corn Measure in *Italy* of seventeen Bushels and an Half.

Mamooda, *India* Coin, in Value about 1 s.

Mamothby, a Coin going for 8 d. *Sterling*, in *Persia*.

Manch, sixty Sheckles of Silver, or 7 s. 10 d. and one hundred Sheckles of Gold, or 75 l.

Manufacture, a Commodity produc'd by the Work of the Hand, as Cloth, &c.

Maritime, Sea Affairs.

Mark, of *English* Coin, is 13 s. 4 d. in *Denmark*, it is 16 s. *Germany*, sixteen *Stivers*, or 2 s. *Sterling*.

Marklups, *Polish* Money, 3 s. 9 d.

Mast, a Quantity of two Pounds and an Half of Amber.

Maund, a Quantity of unbound Books, eight Bales, each having one Thousand Pounds Weight.

Maund-shaw, a Weight in *Persia*, of about twelve Pounds *Averdupois*.

Mease, the Quantity of 500 Herrings.

Measure, is three Bushels and an Half in *Sweden*, and one Bushel in some Parts of *England*.

Medin, Coin in *Egypt* going for three *Aspers*; and a Measure of two Bushels in *Cyprus*.

Messe, *Indian* Coin of 15 d. *Sterling*.

Metre, a *Turkish* Wine Measure, of two Quarts and a Pint.

Milree, a Measure of Wine and Oil, in *France*, &c. containing 17 Gallons.

Monopoly, is the Ingrossing of any Commodity into one or a few Hands. By Statute, all *Monopolies* and Commissions for the sole Buying, Selling, and Making, &c. of Goods and Manufactures, are declar'd void; and Persons aggriev'd thereby, shall recover treble Damages: But this doth not extend to

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to Companies of Trade; or Inventors of new Manufactures, who have Patents from the Crown for their Encouragement.

Mount, a Quantity of three Thousand Pounds Weight, of *Plaster of Paris*.

Mullets, Fines laid on Ships or Goods, by a Company of Trade, to raise Money for the Maintenance of Consuls, &c.

N.

Naval, any Thing belonging to the Sea.

Naufage, a Term for Shipwreck.

Navigation, the Art of Sailing at Sea; also the Manner of Trading. A *Navigator* is one that understands *Navigation*, or imports Goods in foreign Bottoms.

Naulage, Freight paid for Carriage of Goods.

Neat, or *Net*, the Weight of the pure Commodity alone, without the Cask, Bag, or Dross.

Noble, a third Part of twenty Shillings *English* Money, 6 s. 8 d.

Notary-Publick, a Person generally a Scrivener, whose Business it is to take Notes of Contracts publicly; he likewise makes Draughts, Protests of foreign Bills, &c. And *Noting* a Bill is the *Notary's* Going, as a Witness, to take Notice of a Merchant's Refusal to accept or pay it.

O.

Obligor, and *Obligee*, the First, is he that enters into a Bond for Money, &c. and the Last, he to whom it is made.

Oke, a Weight in *Turkey* for Weighing of Meat, of about three Pounds.

Okbam, Flax or Tow, to stop the Seams of a Ship.

Omer,

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Omer, a Measure made Use of by the Jews, of three Pints and an Half.

Orcio, a *Florentine* Oil Measure of eight Gallons.

Orgal, the Lees of Wine dry'd, us'd by Dyers.

Orlap, the Deck of a Ship.

Owlers, Persons that carry Wool, &c. to the Sea-side, by Night, in Order to be shipt off contrary to Law.

P.

Pack, a Quantity of 17 Stone and two Pounds, or 240 Pounds Weight of Wool.

Pagod, a Piece of *Indian* Gold, valued at about 8*s.* *Sterling*.

Par, a Term in Exchange of Money, where a Person to whom a Bill is payable receives of the Acceptor just so much in Value, as was paid to the Drawer by the Remitter; or where the Money, &c. of one Country is equal in Value with that of another.

Paraw, small Coin at *Constantinople*.

Passage, this Word relates to the Sea, and great Rivers.

Patart, a *Stiver* in *Holland*, five whereof make 6*d.*

Patacoon, *Spanish* Coin going for 4*s.* 8*d.*

Pecul, is a Weight of 100 *Caty*, or 132 Pounds at *Japan*.

Pesage, Custom for Weighing of Goods.

Petees, Lead-Money in *India*, 25 whereof make a Farthing.

Picbage, a Consideration paid for the Breaking up of Ground, to set up Booths at Fairs.

Pico, a Measure for Cloth, from 25 to 27 Inches in *Barbary*, *Aleppo*, and *Egypt*; that for Silks and Stuffs is 22 Inches long.

Piece of Eight, *Spanish* Coin, valued at about 4*s.* 6*d.* at *Sevil*, *Mexico*, *Peru*.

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Pocket of Wool, about Half a Pack.

Policy of Insurance, an Instrument enter'd into by *Insurers* of Ships, and Goods, to Merchants obligatory for the Payment of the Sum *insured*, in Case of Loss.

Pood, a Weight us'd in *Muscovy*, about 37 Pounds, whereby Furs, and other fine Goods are weigh'd.

Portegue, *Hamburg* Coin, in Value 2 *l.* 12 *s.* 9 *d.*

Port-sale, a publick Sale of Goods to the highest Bidder.

Poundage, a Duty to the Crown of 12 *d.* in the Pound, for Goods exported and imported.

Pre-emption, the first Buying of a Thing.

Premium, the Money given for Insuring of Ships, Goods, &c.

Primage, an Allowance made to Masters of Ships, at the Time of their Lading, for Sailors.

Prisage, a Duty on Wines, payable at certain Ports.

Protest. See *Bills of Exchange*.

Puncbeon, of Wine, 84 Gallons.

Purse, five Hundred Dollars, or 125 *l.* in *Turkey*.

Pyoe, an *East-India* Coin, being a Quarter of an *Ana*.

Q.

Quadrin, small Money in *Italy*, under a Farthing.

Quarter, in *England* 8 Bushels, in *Spain* about 139 Pounds Weight of Corn.

Quarter-wind, when all the Sails of a Ship draw together.

Quintal, an Hundred Pounds Weight.

R.

Rack-Vintage, a second Voyage for *Rack-Wines*.

Ratian, a Corn Measure of about four Bushels in some Parts of *France*; but it is commonly a Day's

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Day's Allowance of Forage, for Man or Horse in an Army.

Rebate, an *Abating* what the Interest of Money comes to, in Consideration of prompt Payment.

Ree, small Coin of *Portugal*, going for 1 *d.* A *Mill-Ree*, is 6 *s.* 8 *d.* *Sterling*.

Reed, a Jewish Measure, 3 Yards, and 3 Inches.

Regrator, One that buys and sells again in the same Market.

Rialto, a Bridge at *Venice*, whereon the Merchants meet.

Roll, sixty Skins of Parchment.

Rotello, a Turkish Weight.

Rove, a Spanish Weight, about 28 Pounds; also a Wine Measure of 4 Gallons.

Rouble, Coin in *Muscovy*, going for 10 *s.* *Sterling*.

Runlet, an uncertain Quantity of Liquor in Cask, from 3 to 20 Gallons.

Rupee, *East-India* Coin, valu'd at 2 *s.* 3 *d.* *Sterling*.

Ryal, Spanish Money, passing for about 6 *d.*

S.

Sack, a Quantity of Cotton Wool, from one Hundred and an Half to four Hundred; of Sheeps Wool twenty-six Stone.

Salmo, a Corn Measure in *Spain*; the same as our Quarter.

Salvage, an Allowance made for Saving Ships, or Goods, from Danger of the Seas, &c.

Scandel, a Measure of Oil in *France* of 4 Gallons.

Scavage, an ancient Duty laid on Merchant-Strangers.

Scudi, a Coin going for 4 *s.* *Sterling*; 64 *Aspers*, in *Turkey*; 5 *s.* 7 *d.* at *Leghorn* and *Florence*.

Seam, 24 Stone of Glass, each 5 Pounds Weight.

Seignorage, a Duty to the Prince for Gold and Silver brought to be coin'd.

Semibole, a Pipe, or Half a Tun of Wine.

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Seraph, Coin of *Turkey*, passing for 5 s.

Seron, three Hundred of Barilla, two Hundred of Almonds, &c.

Shepel, a *Dutch* Measure for Corn, about three Pecks.

Ship-pound, a Weight for Weighing Flax, Hemp, &c. containing 312, and 320 Pounds at *Antwerp*, &c.

Skilling, *Dutch* Coin, going for about 7 d.

Skipper, a *Dutch* Mariner.

Smuglers, Persons that conceal and run prohibited Goods, Brandy, &c.

Sombre, a Measure of two Quarts in *Spain*.

Sound, to make Trial how many Fathom a Sea is deep.

Sous, Coin, in *France* 3 d. $\frac{1}{2}$. *Germany* 2 d. *Sterling*.

Stack, a Quantity of Wood, 3 Feet long, 3 Feet broad, and 12 Feet high.

Stand, from two Hundred and a Half to three Hundred Weight of Pitch.

Staple, a publick Mart, appointed by Law, to be kept at certain Cities, for the Selling of *Staple* Goods; as Wool, Leather, Lead, &c. Tho' *Staple* Goods are generally understood to be such as are not perishable of any Kind. There are Mayors and Constables of the *Staple*, who, by Statute, have Cognizance of Debts, Contracts, &c. touching Merchandize; and the Mayor of the *Staple* in each Town is empower'd to take Recognizances of Debt, in the Presence of the Constables of the *Staple*; and upon such Obligation, after Default of Payment, the Mayor may imprison the Debtor, attach his Goods, and sell them to satisfy the Creditor; and if the Debtor be not to be found within the *Staple*, the Mayor is to certify the Obligation into *Chancery*, from whence there shall issue a Writ against his Person, Land, and Goods, &c.

Star-board, the Right Side of a Ship; *Larboard*, the Left.

Staticks, Knowledge of Weights and Measures.

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Statute-Merchant, a Bond made and acknowledged, as directed by *Statute*, between *Merchants*. The *Merchant* is to cause the Debtor to come before the Mayor of *London*, *York*, *Bristol*, &c. and acknowledge the Debt; and the Recognizance being thereupon enter'd on the Rolls, afterwards a Bill obligatory is drawn with the Seal of the Debtor, and the King's Seal in the Custody of the Mayor, &c. and if the Debtor fail in Payment, his Goods and Chattels are to be seiz'd and sold to satisfy the Debt.

Stiver, a Coin in *Holland*, about 1 *d.* in Value.

Stone, a Weight of 14 Pounds, for Weighing of Wool, &c.

Stoop, a Measure of Wine, Beer, &c. in *Flanders*, two Quarts of Beer, and three Quarts of Wine.

Sultana, *Turkish* Money in Value 5 *s.* at *Aleppo*, 8 *s.* *Sterling*.

Supercargo, a Person employ'd by Merchants to go a Voyage, and oversee the Cargo, and dispose of it to the best Advantage.

Surcharge, an Overcharge, beyond what is Right.

Swelver, a German Coin, passing for two Pence Farthing.

T.

Tale, a Coin valu'd at 20 *s.* in *India*, 4 *s.* 6 *d.* at *Japan*, &c.

Tallent, a Weight, 62 Pounds *Troy*.

Tally, a cleft Piece of Wood, given by the Officers of the Exchequer, (tallying with the other) to such as pay Money.

Tally-man, a Person that sells or lets Goods, Cloaths, &c. to be paid, at so much a Week.

Tare and Tret, *Tare* is an Allowance in Merchandize made the Buyer for the Weight of the Bag, Cask, &c. And *Tret* is an Allowance for the Waste, as Dust, Dirt, &c.

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Tari, Coin in *Cicily* of 5 *d.* *Sterling*.

Tarpaulin, a tarred Canvas to keep the Weather out of a Ship: Also this Word is commonly us'd for a Mariner.

Tical, Money in *China*, 2 *l.* 16 *s.* 3 *d.* *Sterling*.

Timber, a Number of forty Skins and Furs.

Timpb, *Polish* Coin, passing at 7 *d.*

Tol, a Silk Weight at *Surat*, about 5 Drams.

Toman, Gold Coin, in Value 3 *l.* 6 *s.* 8 *d.* at *Ormus* in the *Persian Gulph*.

Transier, a Warrant from the Custom-house to let pass.

Tronage, a customary Duty for Weighing of Wool.

Tub, of Tea, about 60 Pounds, from 56 to 86 of Camphire.

Tun, forty solid Feet of Timber, cut to a Square.

Tunnage, a Custom granted to the Crown, of so much *per Tun*, for Liquors Imported or Exported.

U.

Vertule, a Corn-Measure in *Flanders*, of two Bushels and three Quarters of a Peck.

Vintage, the Season of Grape-gathering.

Ullage, Want of Measure in a Cask, &c.

Usance, a Calendar Month, as from *May* the 20th to *June* the 20th. And *Double Usance* is two such Months; Words us'd by Merchants in Bills of Exchange.

Usury, is the Gain of any Thing by Contract, above Principal Money lent, exacted in Consideration of the Loan. 5 *per Cent.* is allowed by Law; and more where the Principal is in Hazard, as where Money is to be paid on Return of a Ship from Sea, &c.

W.

Waga, a Weight of 256 Pounds.

Weigh, fixty Bunches of Glafs, 40 Bushels of Corn, &c.

Weights, Troy-Weight 12 Ounces to the Pound, *Averdupois* 16 Ounces.

Wharfage, Fees paid at Wharfs for lading or unlading Goods.

Wool-winders, Persons that bundle up Fleeces of Wool between Buyer and Seller.

Wreck, the Perishing of a Ship at Sea; and the King is intituled to all Wrecks; but if any Creature in the Ship escape alive, the Goods shall be delivered to the Owners, if claimed in a Year and a Day. Justices of the Peace are to command Constables near the Sea Coasts, to call Assistance for the Preservation of Ships, stranded and run ashore, in Danger of being wreck'd.

Z.

Zachine, foreign Coin of Gold, in Value 7 s. 6 d.

Zant-killow, a Measure containing six *English* Bushels.

Zelot, *Turkish* Money going for 2 s. 6 d. *Sterling*.



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